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ABSTRACT

This booklet is part of a series of units designed to help students take and defend a position on public issues. The unit presented here explores questions about when people should challenge authority through a study of the Civil War and slavery. The booklet is divided into six sections. The first and last are an introduction and review respectively. The second section is on the personal and political meanings of slavery. This section discusses the beginnings of slavery and the development of the slave trade, what life was like as a slave, and the national political crisis that developed over the question of the right or wisdom of slavery as an institution. The third section is devoted to resistance and dissent. It traces the resistance efforts of African slaves from the 17th century through Nat Turner's Rebellion in 1831. Violent reactions to the Fugitive Slave Law of 1793 are also described in this section. The fourth section, "Prelude to War," discusses the heightening tensions over slavery, secession of the southern states, Lincoln's inauguration, and the beginning of the Civil War with the attack on Fort Sumter. Photographs, newspaper headlines, letter and diary excerpts, and speeches are used in each of these three sections to illustrate the problems of slavery and the debate that led to war. The fifth section is about current issues relating to the problems of racism. The situation in South Africa is discussed, as is affirmative action and reverse discrimination. Each section includes questions for discussion and activities. The accompanying teacher's guide focuses on the following organizing questions: (1) Who is morally responsible for the effects of slavery? What duties does such responsibility create? (2) On what kinds of questions must there be a single uniform national policy? For what issues is it reasonable to allow differing policies and institutions, depending upon the wishes of the local government? (3) On what grounds is it legitimate for a person, group, or government to secede from a contract or agreement to which they have been a party by tradition or choice? (4) What are the advantages and disadvantages of responses such as martyrdom, peaceful civil disobedience, rioting, secession, or revolution by groups that feel they cannot tolerate existing national policy? (DK)

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Slavery and the Crisis of Union

Public Issues Series

# THE CIVIL WAR: SLAVERY AND THE CRISIS OF UNION

Adapted from the Harvard Social Studies Project
by Laurel R. Singleton
under the direction of
Donald W. Oliver and Fred M. Newmann

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## What Is the Public Issues Series?

The Public Issues Series is a collection of units designed to help you take and defend a position on public issues. A public issue is a question involving a choice or decision over which there is disagreement. Public issues can be answered by all the citizens of a nation or community or by officials acting for them:

- Should the United States take more severe action against South Africa?

Public issues can also be phrased as choices for personal action:

- Should I picket the South African embassy?

Many issues that people have faced at other times in history are still issues today. They simply reappear in different forms. For example, questions about when people should challenge authority have persisted from the time of the American Revolution to the present. People may, however, respond to the questions in different ways; as a result, examining issues as they appeared at different times can help us better understand both the past and the present.

This unit, like others in the Public Issues Series, involves you as much more than a spectator to history. Instead, you will be a thinking, acting participant in the past, the present, and even the future.

## What Are the Central Issues of This Unit?

Measured in casualties alone, the Civil War ranks as America's greatest catastrophe. The dead – 360,000 on the Union side and 258,000 on the Confederate side – represent the highest toll in any U.S. war.

The damages caused by the war climbed to uncountable billions of dollars. Ways of life were radically altered. The concept of the United States as "one nation indivisible" has never again been seriously questioned. Yet the conflict left sectional bitterness that remains today.

This unit introduces some of the issues of the Civil War. While it cannot describe all the social, political, and historical forces that plunged the nation into war, it can shed light on several crucial issues, the necessary questions of this unit:

- Who is morally responsible for the effects of slavery? What duties does such responsibility create?
- On what kinds of issues must there be a single uniform national policy? For what issues is it reasonable to allow differing policies and institutions, depending upon the wishes of the local government?
- On what grounds is it legitimate for a person, group, or government to secede from a contract or agreement to which they have been party by tradition or choice?
- What are the advantages and disadvantages of responses such as martyrdom, peaceful civil disobedience, rioting, secession, or revolution by groups that feel they cannot tolerate existing national policy?

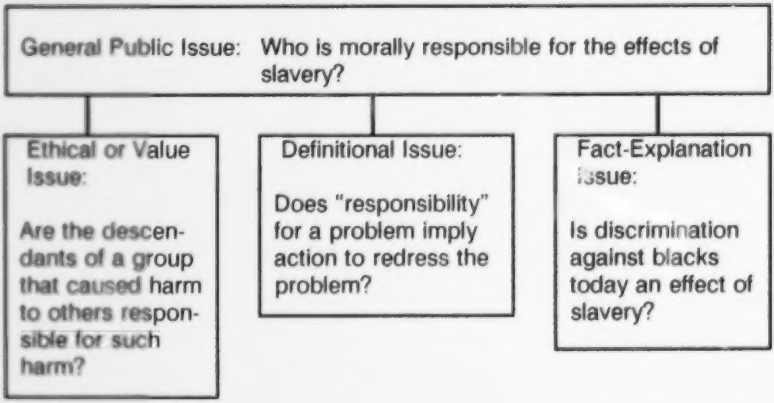
## How Will We Approach the Issues in This Unit?

In this unit, you will take part in many discussions. Remember that not every discussion will resolve disagreements. It is often just as useful for people to learn to state their ideas with more precision and clarity and to discover precisely how their ideas differ from those of others.

No matter what the purpose of the discussion, it can become bogged down by smaller disagreements. Learning to identify the kinds of questions being raised can help keep the discussion moving. In discussing public issues, people generally look at three kinds of questions:

- Ethical or value questions. These questions deal with judgments about what should or ought to be done – judgments about rightness and wrongness.
- Questions of definition. These questions revolve around the meaning of important words or phrases.
- Questions involving facts and explanations. These questions focus on disagreements about the descriptions or explanations of events.

Examples of each kind of question are given in the diagram below:


General Public Issue: Who is morally responsible for the effects of slavery?
Ethical or Value Issue:
Are the descendants of a group that caused harm to others responsible for such harm?
Definitional Issue:
Does "responsibility" for a problem imply action to redress the problem?
Fact-Explanation Issue:
Is discrimination against blacks today an effect of slavery?

You may be starting to see that dealing with public issues involves thinking on several levels at the same time:

- Thinking about the controversial topic at hand.
- Thinking about the process of clarifying the topic by identifying the kinds of questions being raised and using strategies for dealing with them.
- Thinking about the feelings and relationships we develop toward others in the conversation and how we can deal constructively with these feelings.

Remember that the reason for discussing a public issue is not to "win" the argument but to understand more clearly your own views and the reasons that support them, as well as differing opinions.

## Slavery's Beginnings

*One cannot understand the causes of the Civil War without knowing something about the institution of slavery--how it developed and its impact on individuals and society. Slavery was the primary factor differentiating the North and South. When the balance between regionalism and nationalism went awry in the 1850s, the reasons were closely related to differences over slavery. The reading below briefly describes the history of slavery in the United States and the reasons for widening differences over slavery in the 19th century.*

* * * * *

The first Africans brought to the American colonies in the early 1600s apparently had the same status as white indentured servants. The indenture was a contract specifying that an individual would serve for a number of years and then receive freedom. But Southern planters in the middle of the 17th century started to develop big plantation crops for European markets--indigo, tobacco, rice, and sugarcane. As the demand for labor grew, new laws were written to put black people in permanent slavery.

Many Southern leaders expressed doubts about the system. They suggested that slave labor did not give the best possible returns in agricultural production. They voiced alarm about the effects of slavery on the ambition of white workers and about the patrols and military troops that had to be established to make certain that slaves did not rise up against their masters.

With the American Revolution and the revolutionary ideals of liberty, equality, and the rights of man, some Northerners and Southerners moved to condemn slavery as an evil. In the upper South, a large number of slaves were freed, and societies were formed to promote the emancipation and colonization of slaves. Northerners and Southerners alike voted to bar slavery from the Northwest territories in 1787.

Soon after the American Revolution, however, textile-making machines were developed in England. The machines had a seemingly endless appetite for a new crop--cotton. The invention of the cotton gin in 1793 solved the difficult problem of removing the sticky seeds from the cotton fibers. Until then, the crude work of removing the seeds by hand had limited the amount of cotton that could be planted. Cotton gins made it possible and practical to raise 50 times as much cotton.

New fields sprawled all across the old South and into new territories to the west.

The plantation system and slavery grew at an amazing rate. The number of slaves tripled—from half a million in 1775 to 1.5 million in 1820. When the slave trade from Africa was outlawed in 1807, slave breeding and trading within the United States became an industry in itself.

Historian John Hope Franklin, writing of this period, has said

> With British domination at an end and stable government established, Americans could not lay the onus for slavery at the door of the Mother Country. They proudly accepted the challenge and responsibility of their new political freedom by establishing the machinery and safeguards that insured the continued enslavement of blacks. Ironically enough, America's freedom was the means of giving slavery itself a longer life than it was to have in the British empire.

Still, only one Southern family in four actually owned slaves. Only 30 percent of the slaveholders owned more than nine slaves. Yet the laws and customs that were introduced to sustain the slave system were supported by most Southerners, whether or not they held slaves.

Slave owners argued that slavery was a good way of introducing African "pagans" to Christianity – a way to save black people's souls. As time went on, they claimed that black men were inferior by nature as well as by law. They argued that Africans had clearly been created by God to do dull, hard work without complaint.

Under the circumstances, white people developed considerable reluctance to do "slave work." As the number of slaves increased, many laws were written especially to keep black people "in their places," physically and socially. Laws forbade black-white intermarriage, social and business contacts between whites and slaves, and any sign of disrespect by a slave for a white person. Slaves were officially forbidden to learn to read and write.

Most Southerners came to feel that the harsh slave codes were justified on the grounds of economics or plain physical survival. But a vocal minority of Northerners, looking at the slave society from a distance, regarded slavery as a moral outrage. Their feelings were sharpened by the increasingly unfavorable testimony of visitors to the South, by narratives of escaped slaves, and by the writings of free black men, such as David Walker.

David Walker, son of a free mother and a slave father, came from North Carolina to Boston in 1827 to start a secondhand clothing business. A year later, he issued a long four-part essay that lashed out at slavery and white society in measured words more angry and violent than white men had ever seen before. Here are some quotations from his *Appeal*:

> God will show the whites what we are, yet. I say, from the beginning, I do not think that we were natural enemies to each other. But the whites have made us so wretched, by subjecting us to slavery, and having murdered so many millions of us, in order to make us work for them, and out of devilishness – and they taking wives, whom we love as we do ourselves – our mothers, who bore the pains of death to give us birth – our fathers and our dear little children, and ourselves, and strip and beat us one before the other –

> chain, handcuff, and drag us about like rattlesnakes – shoot us down like wild bears, before each other's faces, to make us submissive to, and work to support them and their families. They [the whites] know well, if we are *men* – and there is a secret monitor in their hearts which tells them we are – they know...that there can be nothing in our hearts but death alone, for them....
>
> Remember, Americans, that we must and shall be free and enlightened as you are. Will you wait until we shall, under God, obtain our liberty by the crushing arm of force? Will it not be dreadul for you? I speak, Americans, for your good. We must and shall be free, I say, in spite of you. You may do your best to keep us in wretchedness and misery, to enrich you and your children, but God will deliver us from under you. And woe will be unto you if we have to obtain our freedom by fighting. Throw away your fear and prejudice, then, and enlighten and treat us like men and we will like you more than we do now hate you.

The fullest development of the antislavery movement among Northern (and some Southern) white people might be dated from New Year's Day 1831. That was the day William Lloyd Garrison published in Boston the first issue of *The Liberator*. The newspaper was dedicated to the unconditional and complete elimination of slavery, by force if necessary. Garrison announced his stand on the front page:

> I am in earnest – I will not equivocate – I will not excuse – I will not retreat a single inch – and I WILL BE HEARD!

Under the leadership of Garrison and such others as ex-slave Frederick Douglass, Sarah and Angelina Grimke, and Ohio preacher Theodore Weld, almost 2,000 local abolitionist societies and several larger organizations were formed.

The South fought back with almost total censorship of antislavery literature and with attacks – sometimes fatal – on any people even mildly suspected of contact with abolitionist ideas. Southern philosophers wrote books describing slavery as the very basis of culture and civilization. A good society, they said, required a class of inferior beings to do the brute work so that superior people would be free for higher accomplishments.

## Persisting Questions of History

**Recognizing Values.** People's values, as well as their personal interests, influence their views on public issues. For example, the lefthand column below lists several values that might influence people's views on slavery. Read through and think about these values. Then try to determine which of these values was most important to the people described in the righthand column.

| | |
|---|---|
| Liberty and justice for all | A northerner who opposed slavery but felt it should be allowed to continue in the South |
| Greater freedom for superior individuals | A southerner who owned 150 slaves |
| Wealth | An abolitionist |
| Political stability/unity | |

**Identifying Alternatives.** David Walker described two choices for white Americans: give slaves their freedom or continue keeping slaves in misery and face the violence that would result. Decide whether there were, in fact, other choices available to both blacks and whites. Make a list of as many as you can think of. As you proceed through this unit, look for evidence that these alternatives were tried.

## Life as a Slave

*Accounts by slaves themselves give a sense of the personal consequences of human bondage. While not typical of all slave life, stories of extreme cruelty did much to stir popular feelings in the North against the system. As you read the accounts that follow, try to identify personal and societal consequences of slavery.*

* * * * *

**Austin Steward**

*Austin Steward, a former slave, described plantation life in the following account:*

* * * * *

I was born in Prince William County, Virginia. At seven years of age, I found myself a slave on the plantation of Capt. William Heim. Our family consisted of my father and mother—whose names were Robert and Susan Steward—a sister, Mary, and myself. As was the usual custom, we lived in a small cabin, built of rough boards, and the whole was put together in the rudest possible manner....I never knew Captain H. to furnish his slaves with household utensils of any description.

The amount of provision given out on the plantation per week was...one peck of corn or meal for each slave....The slaves on our plantation were provided with very little meat. In addition to the peck of corn or meal, they were allowed a little salt and a few herrings....

It was usual for men and women to work side by side....Capt. H. employed an overseer, whose business it was to look after each slave in the field, and see that he performed his task. The overseer always went around with a whip, about 9 feet long, made of the toughest kind of cowhide, the butt end of which was loaded with lead....This made a dreadful instrument of torture, and, when in the hands of a cruel overseer, it was truly fearful. With it, the skin of an ox or a horse could be cut through. Hence, it was no uncommon thing to see the poor slaves with their backs mangled in the most horrible manner....

---

From Twenty-two Years a Slave and Forty Years a Freeman, by Austin Steward (Rochester, NY: Allings and Cory, 1859).

Nor is this cruel punishment inflicted on the bare backs of the male portion of the slaves only. On no! The slave husband must submit without a murmur to see the form of his cherished but wretched wife not only exposed to the rude gaze of a beastly tyrant, but he must unresistingly see the heavy cowhide descend upon her shrinking flesh, and her manacled hands writhe in inexpressible torture, while her piteous cries for help ring...unanswered....

* * * * *

**Charles Ball**

*Recent historical research has indicated that many slave marriages were enduring and that family networks among slaves were strong. Slave families had no legal standing, however, and there are many documented instances of the breakup of slave families by owners. One slave, Charles Ball, told of the breakup of his family in these words:*

* * * * *

My grandfather was brought from Africa and sold as a slave in Calvert County, in Maryland...At the time I knew him he was a slave in a family called Maud, who resided near Leonardtown. My father was a slave in a family named Hauty, living near the same place. My mother was the slave of a tobacco planter, who died when I was about four years old. My mother had several children, and they were sold upon master's death to separate purchasers....I, of all her children, was the only one left in Maryland. When sold I was naked, never having had on clothes in my life, but my new master gave me a child's frock, belonging to one of his own children. After he had purchased me...he took me before him on his horse, and started home; but my poor mother, when she saw me leaving her for the last time, ran after me, took me down from the horse, clasped me in her arms, and wept loudly and bitterly over me....She...besought my master to buy her and the rest of her children, and not permit them to be carried away by Negro buyers; but whilst thus entreating him to save her and her family, the slavedriver... came running in pursuit of her with a rawhide in his hand...My mother then turned to him and cried, "Oh, master, do not take me from my child." Without making any reply, he gave her two or three heavy blows on the shoulders with his rawhide, snatched me from her arms, handed me to my master, and seizing her by one arm, dragged her back toward

From Fifty Years in Chains, by Charles Ball (New York: H. Dayton, 1860).

the place of sale...Young as I was, the horrors of that day sank deeply into my heart, and even at this time...the terrors of the scene return with painful vividness upon my memory....

* * * * *

**Harriet Jacobs**

*Harriet Jacobs, a household slave in Virginia, gave this description of her owners:*

* * * * *

Mrs. Flint, like many Southern women, was totally deficient in energy. She had not strength to superintend her household affairs; but her nerves were so strong that she could sit in her easy chair and see a woman whipped till the blood trickled from every stroke....

Dr. Flint was an epicure. The cook never sent a dinner to his table without fear and trembling; for if there happened to be a dish not to his

---

From Incidents in the Life of a Slave Girl, by Linda Brent (Harriet Jacobs), edited by L. Maria Child (Boston, MA: Published for the author, 1861).

liking, he would either order her to be whipped, or compel her to eat a mouthful of it in his presence. The poor, hungry creature might not have objected to eating it; but she did object to having her master cram it down her throat till she choked...

When I had been in the family a few weeks, one of the plantation slaves was brought to town by order of his master. It was near night when he arrived, and Dr. Flint ordered him to be taken to the work house, and tied up to the joist so that his feet would just escape the ground. In that situation he was to wait till the doctor had taken his tea. I shall never forget that night. Never before in my life had I heard hundreds of blows fall, in succession, on a human being. His piteous groans...rang in my ears for months afterwards. There were many conjectures as to the cause of this terrible punishment. Some said master accused him of stealing corn; others said the slave had quarreled with his wife, in the presence of the overseer, and had accused his master of being the father of her child. They were both black, the child very fair....

I was 21 years in that cage of obscene birds. I can testify, from my own experience and observation that slavery is a curse to the whites as well as to the blacks. It makes the white fathers cruel and sensual, the sons violent and licentious; it contaminates the daughters, and makes wives wretched...

## Persisting Questions of History

**Analyzing Tactics.** Abolitionists used slave narratives such as the ones you have just read to ignite anti-slavery feeling. Read the editorial pages of a daily newspaper in a large city for several days. Can you find examples – either from editorials or letters to the editor – of advocates for a particular position using "horror stories" from the news to gain sympathy? (If possible, look for cases in which both sides of an issue – for example, abortion – use the same strategy.) Do you think this strategy is effective in convincing people of the rightness of a position? Why or why not? What evidence do you have that you are right?

**Defining Slavery.** Imagine that you overheard the following conversation:

**Justin:** I think kids are about as bad off today as slaves were before the Civil War.

**Amy:** You're not really saying that *we're* basically slaves, are you? What do you mean?

**Justin:** A slave is a person who doesn't have any rights. We can't vote, we can't drink, we can't leave school or get a good job. We are dependent on adults for everything.

If you were Amy, how would you respond to Justin's definition of a slave? Are young people slaves? At what age should young people become adults with adult rights?

**Identifying the Effects of Slavery.** Harriet Jacobs observed "that slavery is a curse to the whites as well as to the blacks." In what ways do you think she was right? In what ways do you disagree with her?

## National Political Crisis

*While some Northerners worked in an uncompromising way to abolish slavery throughout the nation, others sought to reach some accommodation by which they could both oppose slavery and uphold the Constitution and union. The search for accommodation is the story of slavery as an issue in the U.S. Congress.*

* * * * *

The Missouri Territory had attracted the required number of settlers to its fertile soil, and in February 1819 the people of Missouri asked Congress for statehood. The request, judging from previous actions on statehood, should have been welcome and routine. But when the bill for Missouri statehood came before Congress on February 13, Representative James Tallmadge of New York offered an amendment. He proposed that no slaves be admitted to the new state. He also proposed that the children of slaves already in Missouri should become free when they reached the age of 25.

The Tallmadge Amendment, said Thomas Jefferson, was like "a fire bell in the night." Fierce arguments about statehood and slavery broke out in Congress and across the nation.

Many Northerners charged that slavery was a moral evil that should not only be prohibited in all new states but also should be abolished wherever it already existed. Others, while feeling a duty to prevent slavery from spreading to new states, felt the North should not impose its will upon the South to abolish a long-standing institution that Southerners considered justifiable.

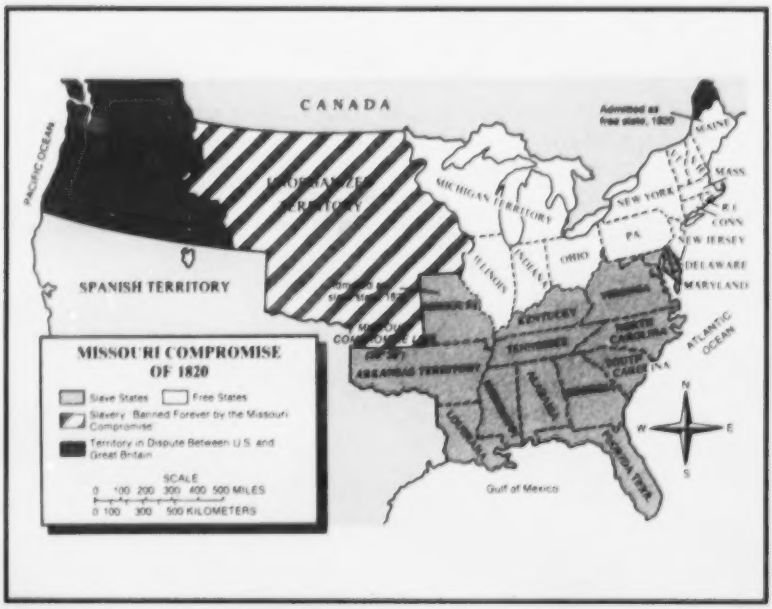
Southerners argued that slavery created much of the wealth in the Southern states. Without it, great plantations would lie bare and families would be financially ruined. To many, slavery seemed an economic necessity that should be tolerated not only in existing states but also in those new states with climate and geography appropriate for a plantation economy. Finally, there were those who believed that Congress should allow residents of each new state to decide the question of slavery for themselves, through popular vote.

People were concerned not only with moral and economic issues but also with political power in Congress. In 1820 there were 11 slaveholding states. There were also 11 states in which slavery was banned.

In the U.S. Senate each state, regardless of population, had two senators. But in the House, where the number of representatives was based on population, the representation of the slave states was declining.

With a population of 5,152,000, the 11 free states had 105 votes in the House. The slave states had 81 votes, based on their population of 4,485,000. (According to the Constitution, states counted three-fifths of the slaves in deciding representation.) Most recent admissions to statehood had apparently been designed to preserve the balance between slave and free states. In terms of this tradition, Missouri "belonged" with the slave states, while Maine, which had also applied for statehood, "belonged" with the free states.

After months of heated debate, the Missouri Compromise was approved in 1820. Maine was admitted as a free state and Missouri as a slave state. But slavery was to be forbidden from that time on in all the rest of the area between the Mississippi River and the Rocky Mountains, and north of the 36° 30' parallel, the southern boundary of Missouri.



Controversies on topics other than slavery heightened tensions between North and South. The South, as a primarily agricultural area, had to import manufactured goods from Europe and the North. To pay for the imports, the South depended on income from the sale of its exports, mainly cotton, to Britain and Europe.

Northern manufacturers, to insure sales for their goods, wished to place tariffs (import taxes) on goods manufactured abroad but sold in the United States. Such tariffs would tend to raise the price of the manufactured goods needed by the South. Higher prices would also diminish the sale of cotton overseas, for if foreign nations were less able to sell products in the U.S., they could not afford to buy as much. A tariff passed by Congress in 1828 enraged many Southerners, who nicknamed it the "Tariff of Abominations."

Senator John C. Calhoun felt that there were certain conditions under which states could refuse to abide by congressional decisions. Because state delegations had written the U.S. Constitution and state conventions had ratified it, he argued, the Union remained a collection of individual states. Therefore, he said, the power of the federal government came from the people, state by state, and not from the total population of the United States as one group.

From this assumption, Calhoun concluded:

> If Congress passed a disputed law, such as a tariff, the people of a state could call a convention and declare the law null and void within their own state. The law would have no effect on the protesting state until three-fourths of all the states approved a constitutional amendment specifically giving Congress power to pass the law. Then the protesting state could submit to the law – or secede from the Union.

South Carolina actually put this theory to the test in 1832 by declaring new tariffs null and void. But President Andrew Jackson responded forcefully. In a Proclamation to the People of South Carolina, he declared that no state could disobey federal laws or leave the Union.

Not long after, Congress passed the "Force Bill," which authorized military action against any state defying federal laws. At the same time, tariffs were lowered to calm Southern protests. Both sides backed down, both claiming victory.

Yet the theory of nullification, with its emphasis on maintaining the power of a "concurrent majority" of state populations, remained a powerful argument for a state's right to preserve slavery in spite of opposition by a congressional majority.

The contest between North and South over slavery in the new territories reached another point of crisis in 1850. Military victory over Mexico had given the United States new territory even greater in area than the Louisiana Purchase. The vast lands included Texas (already admitted to statehood, with slavery permitted, in 1845), the Utah Territory, the New Mexico Territory, and California.

The people of California petitioned Congress in 1850 for admission to the Union as a free state. The issues of 1819 over Missouri were revived. California threatened to tip the balance of slave and free states – now 15 and 15 – in the Senate. Settlers in New Mexico and Utah seemed likely to follow California's lead.

Three new free states would give Northern abolitionist interests a majority in the Senate, leaving the South virtually powerless in Congress on the slavery issue. Southern white population had declined to the point where it held only 31 percent of the seats in the U.S. House of Representatives. Southern leaders, alarmed, called a conference at Nashville, in June 1850. At the top of the agenda was the question of whether the South should secede from the Union.

Senator Henry Clay, of Kentucky, author of the Missouri Compromise, presented another plan that was finally accepted after bitter debate. The Compromise of 1850 decreed that California was to be admitted as a free state. The buying and selling of slaves (but not slavery itself) was to be prohibited in the District of Columbia. People of the New Mexico and Utah territories were to decide by vote – "popular sovereignty" – whether slavery was to be permitted. Finally, a strong new Fugitive Slave Law was to be enacted.

## Persisting Questions of History

**Justifying Federal Policy.** On what grounds do you approve or disapprove of congressional policy made in the Missouri Compromise of 1820, the nullification controversy over the 1828 tariff, and the Compromise of 1850? In discussing these problems, address yourselves to positions held by advocates of both sides in that historical period. Should there have been only one national policy either allowing or prohibiting slavery? Should each state and territory have decided this issue by popular vote? Should traditional practices (i.e., the historic legality of slavery in the South and the region's economic reliance on it) have been considered in deciding on a policy?

**Judging a Position vs. the Reasons Behind It.** To what extent would your opinion of the above policies depend not merely on the side a person takes (i.e., whether he/she is proslavery or antislavery) but also on the kind of reasons he/she gives? For example, Jones says, "Missouri should be free because slavery is morally wrong." Smith says, "Missouri should be free because the North needs to gain more votes in Congress." Do you believe one reason is "better" than the other? What makes a reason good or poor? Think of examples in which a person would hold the "right" position but for the "wrong" reasons.

**Defining Regionalism.** After the 1980 census, the northeastern and midwestern states lost 17 seats in the House of Representatives, while the southern and western states gained 17 seats. For the first time, the south and west held a majority, 227-208. With population growth remaining strong in those regions in the 1980s, that majority is likely to grow in the 1990s.

With your classmates, develop a list of issues on which regions today have differing views. On which of these issues are the differences greatest? Why do you think this is true? Do any of the issues have the potential to be as divisive as the issue of slavery?

## Nat Turner's Rebellion

*David Walker's* Appeal *was not only a prophecy but also an echo of planned slave rebellions that had punctuated American history since the 1600s. Perhaps the best-known rebellion occurred just three years after Walker's book was published. As you read about this violent rebellion and other efforts slaves made to gain their freedom, think about the advantages and disadvantages of each of these methods in achieving change.*

* * * * *

Six slaves met on Sunday, August 21, 1831, in the woods on the plantation of Joseph Travis in Southampton County, Virginia. Henry, Hark, Nelson, Sam, Will, and Jack talked quietly for several hours as they feasted on a small pig that they had barbecued over an open fire. Some good wine, stolen from one of their masters, topped off the meal.

They were joined then by a seventh slave, a short broad-shouldered man named Nat Turner. Nat was known as a preacher and a prophet who saw signs in the heavens. The seven talked for many hours more into the night. After midnight, they walked to the home of Joseph Travis. Hark got a ladder. Nat and Will climbed up, forced open a second-story window, and entered the house. Moving into the bedrooms, they killed Joseph Travis, his wife, and his children with a hatchet and a broadax.

This was the beginning of the bloodiest slave revolt in American history. Within 24 hours, Nat Turner's forces had grown to about 60 slaves. They had marched 20 miles from plantation to plantation along the road to the town of Jerusalem. On the way, they killed nearly 60 white men, women, and children.

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All figures connected with Nat Turner's Rebellion, including the number of people in the Travis family, the number of rebels, and the number of whites killed must remain approximate because of conflicts in original sources and historians' estimates. This case is based in part on information about slave resistance from The Rattling Chains by Nicholas Halasz (New York: David McKay Co., Inc., 1966); The Peculiar Institution by Kenneth M. Stampp (New York: Alfred A. Knopf, 1956); and American Negro Slave Revolts by Herbert Aptheker (New York: Columbia University Press, 1943).

Nat Turner's rebels were scattered and defeated by the morning of August 23. But fearful memories of the rebellion were to affect life in the slave states for more than 30 years, until slavery itself was legally ended.

**Earlier Forms of Resistance**

Nat Turner's Rebellion dramatically challenged slave owners' claims that slaves were naturally "contented." Yet evidence had accumulated for more than a century before Nat Turner's time that slaves resisted their fate in many ways, ranging from trickery to violence.

A slave narrative of the time included this story:

> General Leslie Coombs of Lexington owned a man named Ennis, a house carpenter. He had bargained with a slave trader to take him and carry him down the river. Ennis was determined not to go. He took a broadax and cut one hand off, then contrived to lift the ax, with his arm pressing it to his body, and let it fall upon the other, cutting off the ends of the fingers.

Self-mutilation or suicide was the ultimate form of passive resistance by slaves. Mass suicides were recorded on the Sea Islands of Georgia, where newly arrived Africans simply walked from their slaveships into the sea and drowned. Mass suicides of slaves were also reported in the area of Charleston, South Carolina, in 1807. Hundreds of individual cases of suicide or self-maiming – usually involving a slave who cut off his fingers or hand – are recorded in the plantation journals of the early 1800s.

More frequently, slaves withheld their work by faking injury or illness:

> An Arkansas slave "at any time to save an hour's work" could "throw his left shoulder out of place." A Kentucky slave made himself unserviceable by downing medicines from his master's dispensary....A slave woman was treated as an invalid because of "swellings in her arms" – until it was discovered that she produced this condition by thrusting her arms periodically into a beehive. Yellow Jacob, according to his master's plantation journal, "had a kick from a mule and when nearly well would bruise it and by that means kept from work."
>
> Feigning illness was a favorite method of avoiding labor....Some masters and overseers believed that they

> could tell when a slave was deceiving them, but others were afraid to risk permanent injury to their human property. According to one overseer, trying to detect those who were "shamming illness" was "the most disagreeable duty he had to perform."

"Rascality" was another form of retaliation against the master. One Virginia planter complained: "The slaves are excessively careless and wasteful, and, in various ways...subject us to very annoying losses."

Slaves broke the strongest tools the master could provide. They trampled young plants in the fields or chopped them down with the weeds. Slave owners and overseers blamed this damage on "stupidity." They were often perplexed by the fact that the same slaves, given a small garden plot for their own use, did well.

Slaves usually considered it sinful for one slave to steal from another. Yet they were able to take from the master without much sense of guilt. One slave woman told a visitor from the North that it was "right for us poor colored people to 'propriate whatever of the white folks' blessings the Lord puts in our way." Thus, planters often lost large amounts of meat and corn from their storehouses.

Fire was the slave's most easily available weapon for serious revenge. One striking consequence was the following letter from an official of the American Fire Assurance Co. of Philadelphia to a Georgian in 1820:

> I have received your letter of the 7th respecting the insurance of your house and furniture, in Savannah. In answer thereto, I am to inform you, that this company, for the present, declines making insurances in any of the slave states.

Thousands of cases of arson and suspected arson by slaves were recorded from the 1600s through the 1800s in every place, North and South, where slavery existed.

Direct attacks by slaves against their overseers or masters were less frequent but still common throughout the long history of slavery. As early as 1751, South Carolina passed special laws against slaves' poisoning white people. A Charleston newspaper noted ten years later that "slaves have again begun the hellish practice of poisoning."

Escape seemed a more sensible course, though chances of success were still slim. Thousands of slaves ran away from Southern plantations each year, even before the famous Underground Railroad to the North began to take form in the early 1800s. Sometimes they ran off, aimlessly and hopelessly, when the routine of work and punishment became more than they could bear. One overseer, for example, reported to his master, "John's running off was for no other cause than that he did not feel disposed to be governed by the same rules and regulations that the other Negroes are governed by."

In many other cases, slaves ran away in the vain hope of rejoining wives, parents, or children who had been sold to owners in another county or state.

Their best chances of prolonged freedom lay in the swamps and forests. Some wild areas of the South sheltered camps or communities of escaped slaves—called "maroons." A Virginia newspaper in 1823 reported that people in part of Norfolk County were "at the mercy of a band of lurking assassins, against whose...designs neither the power of the law, or vigilance...can avail. These desperadoes are runaway Negroes."

The U.S. desire to take over Florida from Spain was strongly inspired by the fact that Florida was a refuge for escaped slaves from Georgia

and South Carolina. With the cooperation of Florida Indians, the black men built strong communities. The destruction of one of these towns in 1812 was reported by Georgia militia officers: "We burnt 386 houses; consumed and destroyed from 1,500 to 2,000 bushels of corn; 300 horses and about 400 cattle. Two hundred deer skins were found."

A more permanent problem for slaveholders was the existence of free black people who had purchased their own freedom or had been released by the wills of masters. Citizens of Charleston, South Carolina, complained to their state legislature in 1823 about the existence of free black people:

> ...The superior condition of the free persons of color excites discontent among our slaves, who continually have before their eyes persons of the same color...free from the controls of masters, working when they please, going whither they please, and expending their money how they please – the slave seeing this, finds his labor irksome; he becomes dissatisfied with his state, he pants for liberty!

The free black man was perhaps most important as a channel for the ideas of liberty. He could tell slaves about the ideas of freedom from England expressed by white Americans in the Revolution, about the great rebellion in which slaves took control of San Domingo from their French masters in the 1790s, and about anti-slavery arguments in the debate over the admission of Missouri to the United States. Free black men also transmitted the fiery ideas of David Walker's *Appeal*, published in Boston in 1828.

**Questions for Conversation**

1. What were the common forms of slave resistance to captivity? Can you see any similarities with actions by workers today? Are sick-outs or slowdowns employed by workers today more effective in changing conditions than withholding work was in ending slavery?

2. Find out more about the Underground Railroad. How were its organizers able to help slaves reach freedom?

3. Why did whites in South Carolina complain about free black people? Can you think of cases in your own experience when someone compared their own condition to that of a similar group and became dissatisfied because of the differences?

**Rebellions**

While Walker warned of rebellion, many uprisings had actually occurred already. The first known plot occurred in Gloucester County, Virginia, in 1663, when slaves and white indentured servants combined to overthrow their masters. One of the white indentured servants apparently betrayed the plot, and a number of the ringleaders were beheaded. In 1688, a slave called Sam Negro was severely punished in Westmoreland County, Virginia, because he "endeavored to promote a Negro insurrection in this colony."

About 25 black and Indian slaves burned buildings in New York City in 1712, then killed nine white men who came to put out the fires. About 70 slaves were arrested and 21 of them executed for their part in the plot.

In 1737, a group of black slaves in Stono, South Carolina, attacked the local armory and took guns and ammunition. They then elected a leader, a slave named Cato, and began marching toward the settlements of escaped slaves that they had heard existed in Spanish Florida. On the way, they attacked farms and killed 30 men, women, and children. More than 40 of the slaves were killed before the revolt was put down.

The Gabriel plot of 1800 was named after its leader, a huge man who wore his hair long in imitation of his biblical hero, Samson. Gabriel knew much about the American and French Revolutions and was said to have made a silk banner bearing the words, "Liberty or Death." Over a period of many weeks, he organized more than 300 slaves for an attack on the city of Richmond, Virginia. He calculated that 1,800 more would join him. His men collected stolen bullets and gunpowder and made swords from scythes. The plot was broken when faithful slaves betrayed details at the last minute to their masters. The information might have been too late except for a great storm that blew up on August 30, the night of the planned attack. Bridges on the road to Richmond were washed out.

Gabriel and 44 other slaves were executed after trials that were kept secret from the general public. John Randolph, a distinguished witness to the trials, reported that "The accused have exhibited a spirit which, if it becomes general, must deluge the Southern country in blood. They manifested a sense of their rights, and contempt of danger, and a thirst for revenge which portend the most unhappy consequences."

The reported words of one of the slave defendants suggested what Randolph was concerned about:

> I have nothing more to offer than what General Washington would have had to offer, had he been taken by the British and put to trial by them. I have adventured my life in endeavoring to obtain the liberty of my countrymen, and am a willing sacrifice to their cause: and I beg, as a favor, that I may be immediately led to execution.

The "unhappy consequences" that Randolph foresaw came closer with the discovery of a plot in Charleston, South Carolina, in 1822. The leader of the plot as a prosperous carpenter named Denmark Vesey, who had bought his freedom from slavery in 1800, when he was about 35 years old. As a young man, Vesey had worked many years on slave ships, faithfully doing his work of shackling and herding the black captives. He had apparently never tried to escape.

Vesey's ideas began to change in Charleston, where his shop was a gathering place for both free black men and slaves visiting the city. One slave told of walking down the street with Vesey. The slave shuffled and took off his hat when a white man went by.

"Why do you bow to a white man?" Vesey asked.

"I am a slave."

"You deserve to be one," said Vesey.

"What can we do?"

"You yourself," said Vesey, "have to work and take risks for freedom."

In 1818, Denmark Vesey began four years of work on a remarkable plot for the rebellion of slaves in an area of several thousand square miles. The slaves were to rise up, capture the city of Charleston, and then sail away to the West Indies on ships taken in the harbor.

The plot grew in amazing secrecy, despite the fact that as many as 10,000 slaves were enlisted and given detailed assignments for the day of rebellion – June 16, 1822. Then, at the very last minute, some house

slaves, faithful to their masters, were told about the plot by mistake. Vesey and 36 of his lieutenants were arrested and executed.

Ten years after Vesey's attempt, Nat Turner launched his rebellion in Virginia. In the confessions that he later dictated to a Richmond lawyer, Nat Turner told of ideas of freedom that were based on visions of great forces clashing in the heavens. Nat Turner said that all-out slaughter of white men, women, and children was planned only for the first stage of the rebellion: "Women and children would afterwards have been spared, and men too, who ceased to resist." There was evidence that the growing band of slaves did spare one poor white family "so wretched as to be in all respects upon a par with [the slaves]." Everyone else on the way to the town of Jerusalem was struck down. At each plantation, families were killed as they lay in their beds or tried to flee.

Finally, Nat Turner decided to move directly to Jerusalem. But members of his band decided that they would try to recruit the slaves on one last plantation, 3 miles from town, owned by a man named Parker. While some of the slaves marched on the Parker plantation house, Nat Turner and others waited at the gate. There they were caught by a group of mounted white men who had gotten the first alarm about the rebellion.

Nat Turner's group drove the white men back in an exchange of fire. As the white men retreated toward Jerusalem, however, they met a unit of militia marching out in search of the rebels. The regrouped white men went back and scattered Nat Turner's forces.

Nineteen slaves were captured, charged with marching in Turner's force, and executed. More than a hundred other black people – uncountable in the wave of terror and vengeance – were killed by roaming bands of militiamen. General Eppes, in command of the county militia, finally called for an end to "acts of violence" on grounds that such acts "dignified the rebel and the assassin with the sanctity of martyrdom."

Nat Turner himself remained in hiding more than two months before his capture on October 30. Though he had given a detailed confession, Nat Turner pleaded not guilty when he was put to trial on November 5. He told the court he did not *feel* guilty. He was convicted and hanged on November 11, with Hark, Nelson, and Sam, whose executions had been delayed until Nat Turner could be tried.

Nat Turner's rebellion was a signal for the South to expand the vast system of laws and armed men built to hold the slaves in check. After

the Nat Turner episode, rumors of new rebellions erupted across the slave states. Alarms and tensions multiplied.

Northerners were generally shocked by news of the bloodshed. Yet many accepted the event as a natural risk of the slaveholding system. Some abolitionists, such as William Lloyd Garrison, called Nat Turner's actions a just response to the conditions in which slaves were held. Another abolitionist, Thomas Wentworth Higginson, wrote an essay in which he offered certain justifications of the rebels' deeds:

> Swift and stealthy as Indians, the black men passed from house to house – not pausing, not hesitating, as their terrible work went on. In one thing they were humaner than Indians or than white men fighting against Indians – there was no gratuitous outrage beyond the death-blow itself, no insult, no mutilation; but in every house they entered, that blow fell on man, woman, and child – nothing that had a white skin was spared. These Negroes had been systematically brutalized from childhood; they had been allowed no legalized or permanent marriage; ...some of them had seen their wives and sisters habitually polluted by the husbands and the brothers of these fair women who were now absolutely in their power. Yet I have looked through the Virginia newspapers of that time in vain for one charge of an indecent outrage on a woman against these triumphant and terrible slaves. Wherever they went, there went death, and that was all. Compare this with ordinary wars; compare it with the annals of the French Revolution....

**Questions for Conversation**

1. Describe the major attempts by slaves to organize and carry out armed rebellion. With what arguments were slave rebellions justified by both slaves and white abolitionists? Look especially at the words of Higginson.

2. How did white southerners react to the slave plots and rebellions? Was this a reasonable response? Explain your answer.

3. Do you think the comparison between the slave rebels and George Washington is a good one? Why or why not?

## Persisting Questions of History

**Evaluating Violence**. Do you believe that Nat Turner, Denmark Vesey, and leaders of other slave revolts were morally justified in their use of violence? To what extent do you agree with the following ideas on this issue?

- It was right to attack slaveholders and overseers, but not women and children.
- Unless the slave leaders were duly elected by their fellow slaves, they had no business taking matters into their own hands and putting other slaves in danger of brutal reprisals.
- Although it's never pleasant, sometimes you have to use brutal terrorism against women and children to prove that you're really serious about changing an unjust or immoral institution.
- The slaves were wrong, not just because violence is wrong, but mainly because that kind of violence, under those historical circumstances, was not likely to achieve their goal of freedom for slaves.
- The slaveholders, overseers, and their families deserved what they got. They were paid back for the many slaves whose slaughter they caused or condoned.
- Since the South failed to respond to peaceful arguments to abolish slavery, the slaves had no alternative but to try violent methods. In this sense Turner and the others should not have to bear the moral responsibility.

**Revolution vs. Secession and Separatism.** Persecuted minorities have often fled their persecutors and established new, separate communities (e.g., Roger Williams' founding of Rhode Island or the Mormons' trek to Utah). Suppose that Nat Turner and leaders of other slave revolts chose not to overthrow the government of the countries or states where they were held captive, but instead organized a mass exodus to new territory in the West to establish a separate black state in which blacks would control their own economy and politics. The slaves would use violence only against those who stood in their path – those who tried to stop their march or tried to capture them to return them to slavery. Would fleeing slaves be more or less justified in using violence to achieve the goal of a separate black state than in using violence to overthrow the governments of existing states? Explain your thinking.

**Testing a Position Using an Analogy.** Compare the case of the slaves who turned to violence to overthrow their masters with that of black South Africans, who have used violence to protest apartheid, the rigid system of racial separation and oppression enforced by the white South African government.

The following excerpt is taken from a speech by Nelson Mandela, leader of the African National Congress, at his trial in 1964:

> I admit immediately that I was one of the persons who helped to form Umkhonto We Sizwe, and that I played a prominent role in its affairs until I was arrested in August 1962.
>
> ...I and the others who started the organization did so for two reasons. Firstly, we believed that as a result of Government policy, violence by the African people had become inevitable, and that unless responsible leadership was given to chanalise and control the feelings of our people, there would be outbreaks of terrorism which would produce an intensity of bitterness and hostility between the various races of this country which is not produced even by war. Secondly, we felt that without violence there would be no way open to the African people to succeed in their struggle against the principle of white supremacy.
>
> But the violence which we chose to adopt was not terrorism. We who formed Umkhonto were all members of the African National Congress, and had behind us the ANC tradition of non-violence and negotiation as a means of solving political disputes....
>
> The African National Congress was formed in 1912 to defend the rights of the African people which had been seriously curtailed by the South Africa Act, and which were then being threatened by the Native Land Act. For thirty-seven years – that is, until 1949 – it adhered strictly to a constitutional struggle. It put forward demands and

From The Sun Will Rise – Statements from the Dock by Southern African Political Prisoners, edited by Mary Benson (London: The International Defence and Aid Fund for Southern Africa, 1981).

resolutions; it sent delegations to the Government in the belief that African grievances could be settled through peaceful discussion and that Africans could advance gradually to full political rights. But white Governments remained unmoved, and the rights of Africans became less instead of becoming greater....

The ANC launched the Defiance Campaign, in which I was placed in charge of volunteers. This campaign was based on the principles of passive resistance. More than 8,500 people defied apartheid laws and went to jail. Yet there was not a single instance of violence in the course of this campaign on the part of any defier....

In 1960, there was the shooting at Sharpeville, which resulted in the proclamation of a state of emergency and the declaration of the ANC as an unlawful organization. My colleagues and I, after careful consideration, decided that we would not obey this decree...The ANC refused to dissolve but instead went underground. We believed it was our duty to preserve this organization which had been built up with almost fifty years of unremitting toil. I have no doubt that no self-respecting white political organization would disband itself if declared illegal by a government in which it had no say....

It may not be easy for this Court to understand, but it is a fact that for a long time the people had been talking of violence – of the day when they would fight the white man and win back their country, and we, the leaders of the ANC, had nevertheless always prevailed upon them to avoid violence and to pursue peaceful methods. When some of us discussed this in May and June of 1961, it could not be denied that our policy to achieve a non-racial state by nonviolence had achieved nothing, and that our followers were beginning to lose confidence in this policy and were developing disturbing ideas of terrorism.

It must not be forgotten that by this time violence had, in fact, become a feature of the South African political scene. There had been violence in 1957 when the

> women of Zeerust were ordered to carry passes; there was violence in 1958 with the enforcement of cattle culling in Sekhukhuniland; there was violence in 1959 when the people of Cato Manor protested against pass raids; there was violence in 1960 when the Government attempted to impose Bantu Authorities in Pondoland. Thirty-nine Africans died in these disturbances. In 1961 there had been riots in Warmbaths, and all this time the Transkei had been a seething mass of unrest. Each disturbance pointed clearly to the inevitable growth among Africans of the belief that violence was the only way out – it showed that a Government which uses force to maintain its rule teaches the oppressed to use force to oppose it....
>
> After a long and anxious assessment of the South African situation, I and some colleagues came to the conclusion that as violence in this county was inevitable, it would be unrealistic and wrong for African leaders to continue preaching peace and non-violence at a time when the Government met our peaceful demands with force....
>
> Four forms of violence are possible: sabotage, guerrilla warfare, terrorism and open revolution. We chose to adopt the first method and to exhaust it before taking any other decision....
>
> Sabotage did not involve loss of life, and it offered the best hope for future race relations.

Compare the situations of black slaves in the American South and black South Africans. How are they like? How are they different? Was either group more justified in using violence than the other? Explain your answer.

Can violence be channeled or controlled, as Mandela and others hoped? You may want to refer to the quotation from Thomas Wentworth Higginson for his views.

Apartheid still exists, more than 25 years after Nelson Mandela spoke these words. As of summer 1989, Mandela was still imprisoned, and the ANC remained a banned organization in South Africa. Find out

the ANC's current position on violence. How has it changed? How has it remained the same? What events have shaped the organization's position? Do you believe the policy is a good one? Why or why not?

**Evaluating the Effectiveness of Violence.** The Jews in Nazi Germany have sometimes been criticized for not showing greater resistance. Jews were used in forced labor camps, brutalized, and killed, but there was only one uprising, in Warsaw. In the face of overwhelming odds, is it reasonable to use violence? Is violence effective as a witness against oppression, or should it be avoided entirely if it has no chance of succeeding in making changes? If violence from within a nation cannot be successful in changing or overthrowing a brutal or unjust regime because of disparities in numbers, arms, or other resources, should another society, such as the United States, enter the situation and try to right the wrongs?

## The Fugitive Slave Law

*The victims of the slave system were not the only ones who violated laws in hopes of changing the system. In the North, abolitionists protested and violated a federal law they considered unjust—the Fugitive Slave Law. Ironically, an argument used against the law was that it infringed on states' rights—the same argument Southerners used to support their right to keep slaves. The states' rights argument was based on a series of events that went back to the constitutional convention.*

* * * * *

A fugitive slave clause had been one price demanded by Southern delegates for approval of the U.S. Constitution in 1787. This clause (in Article IV, Section 2) provided that:

> No person held to service or labor in one State, under the laws thereof, escaping into another shall in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

The constitutional provision was backed up by the Fugitive Slave Law of 1793. This law said that slaveholders could go into other states to recapture their slaves with the aid of state officials. But the Supreme Court decided in 1842 that state officials were not obligated to help in recapturing slaves. After that, several Northern states passed "personal liberty" laws that forbade state officials to help in catching runaway slaves.

Slaveholders were furious over such actions and over the increasing success of the Underground Railroad, which eventually made possible the escape of as many as 100,000 slaves, worth about $30 million in Southern markets.

The Fugitive Slave Law of 1850 made not only state officials but also *all* citizens responsible for the capture of runaway slaves. It provided that a person accused of being a runaway slave would be returned to his owner without the rights to a trial by jury or to testify in his own behalf. The truth of the accusation against him would be determined by a commissioner chosen by a federal circuit court. If the commissioner decided in favor of the owner (or the owner's agent), he received a fee of $10,

paid by the owner; if he decided against the owner, the fee was $5. The law required "all good citizens" to "aid in prompt and efficient execution of the law" and allowed federal officials to "summon bystanders to their aid." Any citizen who aided a slave to escape could be heavily fined.

The passage of the Fugitive Slave Law angered Northern foes of slavery. When Thomas Sims, an escaped slave, was arrested in Boston, broadside posters of the following kind began to appear around the city:

> Citizens of Boston awake! A free citizen of Massachusetts, free by Massachusetts laws until his liberty is declared to be forfeited by a Massachusetts jury is Now imprisoned in a Massachusetts Temple of Justice. The compromises...are to be crammed down the throat of the North. The kidnappers are here, Men of Boston! Sons of Otis, and Hancock and the brace of Adameses. See to it that the Massachusetts laws are not outraged with your consent! See to it that no free citizen of Massachusetts is dragged into slavery without trial by jury.

But all was in vain. At three o'clock on the morning of April 13, a U.S. marshal and a guard of 300 police led Sims to a ship in Boston Harbor. The ship took Sims to Savannah, where he was publicly whipped and kept in a prison cell for two months. He was later sold to a Vicksburg brickmason.

Even this excitement was tame compared to Boston's agitation over the case of Anthony Burns. On the evening of May 24, 1854, Burns, a 24-year-old black man, left the Brattle Street clothing store where he had been working for a month since his escape from slavery in Virginia. As he passed the corner of Hanover and Court Streets, a man touched him on the shoulder.

"Stop, old boy," the man said. He then explained that Burns was under arrest for having robbed a jewelry store. Burns halted in bewilderment. Instantly, six or seven men surrounded him, picked him up by the arms and legs, and carried him down the middle of the street to the courthouse.

At the entrance, a U.S. marshal was waiting with a drawn sword. The men then hurried the prisoner up several flights of stairs to a jury room that was to serve as a cell. Suddenly, Burns realized what had happened: he had been arrested, not as a jewel thief, but as a fugitive slave.

This suspicion was immediately confirmed when Colonel Suttle, his former owner, entered the jury room. "How do you do, *Mr.* Burns?" Suttle sarcastically greeted him. "Why did you run away from me?"

Burns replied, "I fell asleep on board the vessel where I worked, and before I woke up, she set sail and carried me off."

That was enough: Burns had recognized Suttle and tried to justify his escape. In effect, he had confessed that he was a fugitive slave.

Soon afterwards, Burns was taken before Commissioner Edward Loring, who was to rule on the case. According to the law, Commissioner Loring declared, the case was perfectly plain and the decision totally inevitable: Burns must be given over to his former master.

Many Bostonians urged resistance to the Commissioner's decision. "See to it...that Anthony Burns has no master but his God!" said Wendell Phillips, a lawyer famed for his oratory, as he addressed a meeting at Faneuil Hall on May 26.

Reverend Theodore Parker followed with an even more passionate speech:

> Well, gentlemen, I say there is one law – slave law; it is everywhere. There is another law, which also is a finality; and that law, it is in your hands and your arms, and you can put that in execution just when you see fit. Gentlemen, I am a clergyman and a man of peace; I love peace. But there is a means, and there is an end; liberty is the end, and sometimes peace is not the means toward it.

By this time, many in the crowd were ready to launch an attack on the courthouse that very night. Phillips managed to quiet them down, until suddenly a man at the entrance door shouted: "Mr. Chairman, I am just informed that a mob of Negroes is in Court Square attempting to rescue Burns. I move that we adjourn to Court Square."

No one waited for a vote. The crowd poured out of Faneuil Hall, surged around the court house, and began to assault it with a battering ram. The door was soon broken enough for two men at the front – a Reverend Wentworth Higginson and an unknown black man – to enter.

The two quickly reappeared, cut by the swords and clubs of the defending officials inside. The mob pressed forward with new anger. Then one of the marshal's men within the court house fell beside the door with a fatal stab wound. The crowd now drew back, dismayed by this flow of blood. They soon dispersed.

Meanwhile, the more peaceful antislavery people had begun negotiating with Colonel Suttle for the purchase of Anthony Burns. Suttle's price was $1,200 cash. The money was raised and a bill of sale was about to be drawn up when the U.S. district attorney intervened. He rejected the sale until the commissioner had decided the case. He also pointed out that Massachusetts law forbade selling a man. The deal fell through.

Now the antislavery forces had only one more chance of saving Burns: to prevent the federal officers from getting the fugitive onto the ship moored in the harbor, one-third of a mile away from the courthouse. Handbills were circulated through the city, urging the people to "Watch the Slave Pen!!" Notices were mailed to residents outside of town: "Sons

of the Puritans," the message declared, "come to watch the removal of Burns with courage and resolution in your hearts; but, this time, with only such arms as God gave you."

At 8:30 on the morning of June 2, the troops (which the fearful federal officials had requested) paraded on Boston Common. In all there were 22 companies, including two cavalry units, totaling over 1,000 soldiers.

By 11 o'clock, Court Square was packed with sullen Bostonians. Above them, at the eastern door of the courthouse, stood a loaded cannon pointing at the crowd. The tension grew. Finally, at 2 o'clock, the troops formed a column and began to march toward the wharf, followed by Burns in the middle of an armed posse. Thousands of people lined the route. So did the symbols of their feelings: a black coffin hung from a window opposite the Old State House, decorated by a banner reading "The Funeral of Liberty." Nearby, an American flag was draped in mourning.

In the end, however, Burns was put aboard the ship and sent to Richmond. There he stayed in a cell, his wrists and ankles shackled, for four months until he was sold to a North Carolina slaveholder.

Massachusetts did not forget the incident. Wendell Phillips persuaded the state legislature to petition the governor to remove Commissioner Loring from his judgeship. The governor refused, but the legislature persisted. It passed a "personal liberty law" prohibiting the seizure of any fugitive slaves. No other fugitive slave was ever again arrested on Massachusetts soil.

A week after Burns was shipped to Virginia, James Freeman Clarke, a Unitarian minister, voiced the feelings of many of his fellow Bostonians:

> So the Slave Power...has come North to Boston, has taken possession of our Court House, of our City Government, of our whole Police Force, our whole Military Force, and suspended and interrupted the business of our citizens until its demands could be satisfied....Now would be the time for this community to put on mourning – to wear black crepe on the arm; because Honor is dead, because Humanity is dead, because Massachusetts has been placed by her own acts beneath the feet of Virginia.

## Persisting Questions of History

**Conflicts Between Federal and State Governments.** Was it right for the federal government to capture Anthony Burns? What, if anything, should have been done to the Massachusetts citizens who resisted enforcement of the law? Was it right for the Massachusetts state legislature to pass a law that conflicted with a federal law? How was this the same as or different from the theory of nullification suggested by South Carolina some years earlier?

**Testing a Position Through Analogy.** In May 1954, the U.S. Supreme Court decided that racial segregation in public schools was unconstitutional. Over the next year, the Board of Education of Little Rock, Arkansas, worked out a plan of gradual integration of black students into previously all-white schools. The plan was to start in September 1957, with the assignment of nine black students to Little Rock's Central High School.

On the day before school started, Arkansas Governor Orval Faubus announced that he was sending National Guard troops to Central High School. Faubus said that if black students attended Central, violence and disorder would erupt in Little Rock. The troops would prevent black students from entering the school and would help "maintain or restore peace and good order."

Mayor Woodrow W. Mann of Little Rock criticized the governor for calling out the guard "to put down trouble where none existed." A federal judge agreed and ordered the nine students enrolled.

On the next day, nevertheless, National Guard troops kept the nine black students from entering Central High. White demonstrators gathered at the school to support the governor's orders.

Officials of the U.S. Department of Justice took the case to court again. On September 14, Governor Faubus flew to Newport, Rhode Island, for a conference with President Eisenhower. After the meeting, the governor said he would abide by the federal court decision.

On September 20, the federal court supported the desegregation plan. That night, the Governor ordered the National Guard troops removed from Central High. On September 23, the nine students entered the school. A mob began to gather outside early in the morning, growing to more than a thousand people. Many white parents went into the

school and took their children out. Scattered incidents of violence began to break out, and the mob threatened to overpower state and local police. Finally, the nine black students were removed.

President Eisenhower issued a proclamation saying that "federal law...cannot be flouted with impunity by an individual or a mob of extremists." He said he would use "the full power of the United States" to enforce the law. On September 24, more than 1,000 troops of the 101st Airborne Division were rushed to Little Rock. The Arkansas National Guard was ordered into federal service, making it responsible to the president's orders rather than the governor's. On September 25, the nine black students entered the school again, this time under the protection of federal troops.

Do you think President Eisenhower was justified in sending in federal troops to enforce the court order against the wishes of many Little Rock citizens and their governor? In what important ways is the Little Rock case similar to and different from the Burns case?

**Analyzing a Case Study in Federalism.** In 1981, Ronald Calder, an air traffic controller with the Federal Aviation Administration, had a heated argument in the parking lot of a grocery store in Puerto Rico. Calder exchanged harsh words with Antonio de Jesus Gonzalez and his pregnant wife, Army Villalba. Witnesses said that Calder then struck the couple with his car and repeatedly drove over Villalba's body. She and the baby died.

Calder was arraigned before a district court in Puerto Rico and charged with first degree murder and attempted murder. His bail was set at $50,000, yet Calder failed to appear at a scheduled preliminary hearing. Bail was then set at $300,000 and Puerto Rico declared Calder a fugitive of justice.

Calder fled Puerto Rico and returned to his family's home in Iowa. When Puerto Rican officials tracked him down, they served a formal extradition request upon the governor of Iowa. During a hearing on the matter, Calder's counsel commented that a "white American man...could not receive a fair trial in the Commonwealth of Puerto Rico." Iowa denied the extradition request following the hearing. Puerto Rico later renewed its request with Iowa's present governor, Terry Branstad. Branstad would not comply.

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From "Court Report," Update on Law-Related Education (Winter 1988).

In February of 1984, the Commonwealth of Puerto Rico filed suit in a federal district court in Iowa. Puerto Rico demanded two things: first, it asked the court to declare that Iowa's refusal to extradite Calder violated the Extradition Clause of the Constitution and the Extradition Act of 1793. The Act, an interpretation of the constitutional provision, requires a state, district, or territory to surrender a fugitive of justice to the authorities of any state or territory when that state or territory produces the appropriate extradition papers. Puerto Rico also asked the court to issue a writ of mandamus directing Governor Branstad to honor the extradition request.

The district court dismissed Puerto Rico's request based on the holding in a 125-year-old case, *Kentucky v. Dennison*, 24 How. 66 (1861). The court of appeals affirmed under the same analysis. The Supreme Court's holding in *Dennison* was twofold: (1) the Extradition Clause imposes a mandatory duty upon the states to deliver up fugitives upon a state's proper request; but (2) the Court held that federal courts have no authority under the Constitution to compel a state official to perform the ministerial duty of delivery. In other words, although the Constitution demands extradition by state officials under certain circumstances, the demand had no impact since no one, including the federal government, could force state officials to comply with it.

Governors have often come into conflict about extradition. In the *Dennison* case, a grand jury in Kentucky had charged Willis Lago, "a free man of color," with the crime of assisting the escape of a slave. Lago lived in Ohio, and the governor of Ohio's argument was that he need not extradite Lago since Lago's actions were not criminal in Ohio.

Other conflicts have had unexpected ramifications. In 1937, the governor of Massachusetts refused to honor an extradition request from Georgia. In retaliation, the Georgia governor paroled a prisoner on the condition that he go directly to Massachusetts on release.

What are the relevant facts of the Calder case? Does it matter, for example, that Calder was white? Does it matter that Puerto Rico is not a state, but a commonwealth? What arguments could be made in support of Puerto Rico's case? What arguments could be made on behalf of Iowa's governor? How would you decide on this case? In explaining your decision, be sure to describe its impact on the balance between federal authority and states' rights.

## Tensions Heighten

*The bargain of 1850 had hardly been sealed before conditions changed again. A "bestselling" novel about slavery, the Kansas-Nebraska Act, and the Supreme Court's decision in the Dred Scott case intensified the sectional strife.*

* * * * *

Harriet Beecher Stowe's novel, *Uncle Tom's Cabin*, appeared in serial form in 1851-1852 and as a book in 1852. Although antislavery literature had existed for years, this first novel about the evils of slavery was read by many more people than antislavery pamphlets, abolitionist newspapers, and slave narratives had been. Because of its form – a vividly written story – and perhaps also because Stowe did not advocate equal rights for blacks as such abolitionists as Garrison did, *Uncle Tom's Cabin* stirred many Americans who had not previously thought seriously about slavery.

The book was an especially unusual work for a woman author, since most women writers of the day did not deal with political topics. While the Grimke sisters and Lydia Maria Child had written antislavery tracts, most popular women novelists wrote "polite" stories that did not deal with such subjects as slavery.

As Stowe herself wrote to a friend, "Up to this year, I have always felt that I had no particular call to meddle with this subject....But I feel now that the time has come when even a woman or a child who can speak a word for freedom and humanity is bound to speak....Such peril and shame as now hangs over this country is worse than Roman slavery, and I hope every woman who can write will not be silent."

Things were not quiet in Congress either. In 1854, the Kansas-Nebraska Act declared that two big new territories would be organized on the basis of "popular sovereignty" – a popular vote on whether slavery would be permitted. Proslavery and abolitionist forces rushed into the territories in an attempt to gain control of the vote by numbers or by armed might. By 1856, "Bleeding Kansas" was a battleground and a national issue.

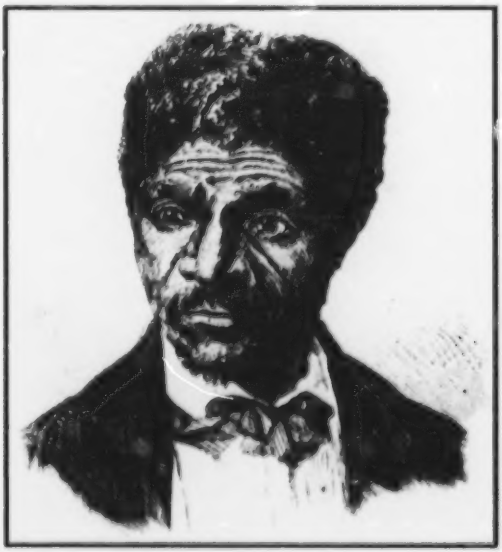
By the presidential election of 1856, one of the national political parties – the Whigs – had become a victim of the sectional strife. Although Democrat James Buchanan, a compromise candidate known to have

sympathy with the South, was elected, sectional differences were becoming increasingly apparent in that party as well. The new antislavery party, the Republicans, were becoming the party of the North.

President Buchanan received bad news after only two days in office. This bad news was the Supreme Court's decision in the Dred Scott case. Dred Scott was a slave who had been taken to Illinois and then to Wisconsin Territory (now Minnesota) – both free – by his master, John Emerson. Scott was eventually taken back to Missouri by Emerson, who died in 1843. In 1846, Scott filed suit against Mrs. Emerson, saying that he should be free because he had lived in Illinois and Wisconsin Territory – areas where slavery was forbidden by the Missouri Compromise.

The case eventually reached the U.S. Supreme Court. The first question the court decided was whether Scott was a citizen, giving him the right to sue in the courts of the United States. In answer to this question, the Court said that not only was Scott not a citizen, but that emancipated slaves and their descendants could not become citizens.

The second question taken up by the Court was whether living in a free state and territory had made Scott a free man. Here, Chief Justice Taney, writing for the Court, said that if Scott were free simply because



Dred Scott

his master took him to free territory, it would be a violation of the Fifth Amendment guarantee that no one could "be deprived of life, liberty, or property without due process of law." Thus, the Court struck down the Missouri Compromise as unconstitutional, stating "an act of Congress which deprives a citizen of the United States of his liberty or property [including slave property] merely because he came himself or brought his property into a particular territory of the United States, and who had committed no offense against the laws, could hardly be dignified with the name of due process of law."

Northern abolitionists were outraged, calling for open defiance of the Court's decision:

> Shall this decision be submitted to? It need not be.... The people are mightier than courts or Presidents. The acts of Congress, though declared void, are not repealed. The acts of the free states, though pronounced invalid, still exist. If the people will, they can be maintained and enforced.
>
> Is it said that this is revolutionary counsel? We answer, it is the Southern judges of the Supreme Court who are the authors of revolution. They have enacted a principle contrary to the most plain and obvious sense of the Constitution they pretend to interpret....
>
> The decision is also opposed to the unanimous judgement of the statesmen and jurists by whom the Constitution was formed, and to the amplest recorded testimony as to their intentions. It is a doctrine not twenty years old, which those judges conspiring with the most desperate school of Southern politicians, the men who have been for the space of a generation plotting against the Union, have dared to foist upon the Constitution. It is a sacrilege, against which the blood of our fathers cries from the ground....
>
> If the Constitution is a charter to protect slavery, everywhere, then it is a sin against God and man to swear allegiance to it. Every man will be forced to choose between disunion and the guilt of an accomplice in the crime of slavery. May God avert such an alternative!

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From The Liberator (March 27, 1857).

The Southerners' turn to be outraged came two years later, following John Brown's raid on Harpers Ferry. Brown was an abolitionist who hoped to establish a military post in the mountains of Virginia, from which he would launch a campaign to free slaves all over the South. To arm themselves, Brown and 18 followers attacked the federal arsenal at Harpers Ferry, Virginia. After two days of fighting, Brown and five of his men were captured (of the others, ten were killed and three escaped). They had killed one marine and four residents of Harpers Ferry. Brown was found guilty of treason and was hanged.

After Brown's death, many Northern abolitionists wrote and spoke of him as a martyr and liberator. This response outraged Southerners, including those who had until then hoped to save the union. If Northerners could support a man who had planned for a massive slave insurrection, Southerners felt, they could not view the Northerners as fellow countrymen. Knowing that their region had become a minority in the national government, Southerners spoke out against the "tyranny of the majority":

> The law which commands obedience to the mandates of the physical force of an unrestrained numerical majority is the operative law. A law such as this acting upon a society singularly energetic and adventurous, greedy after wealth and lusting for power, has no limit but the measure of its own power, and that measure is the extent of the physical force of the numerical majority of the people....There is but one defense of practical value and real efficiency: it is the ability and will of the minority to resist the action of the ruling majority...."

From the Richmond Semi-Weekly Examiner (January 6, 1860)

## Persisting Questions of History

**The Rule of Law.** Historian David Potter has written that the events described in the reading above showed "how little either northern or southern attitudes were governed by inherent devotion to the law of the land on one hand or to states' rights on the other. The events of the fifties offered a telling demonstration that the attitude of various groups in a society toward upholding the law is in direct proportion to their approval or disapproval of the law which is to be upheld."

Do you agree with Potter that there was little loyalty to the law itself in the 1850s? Do you think the same is true today? Do you think Americans should place higher value on rule of law than on other values? Explain your thinking, considering the other values that were competing with rule of law in the 1850s. These might include majority rule, minority or states' rights, and property or wealth.

**Martyr or Traitor?** After John Brown's execution, a prominent Northern minister, Theodore Parker, wrote the following to a friend: "...we must give up DEMOCRACY if we keep SLAVERY or give up SLAVERY if we keep DEMOCRACY....It may be a natural duty for the freemen to help the slaves to the enjoyment of their liberty, and as means to that end, to aid them in killing all such as oppose their natural freedom."

Imagine that you were a Southerner reading these words. What would your reaction be? Would you feel that your fears following the Nat Turner Rebellion had been justified? Would you still be willing to seek a compromise solution to save the Union? Why or why not?

**Majority Rule vs. Minority Rights.** In recent years, the U.S. government has used federal funds to influence state policy. For example, states have been able to receive highway funds only if their speed limits and drinking ages conformed to federal guidelines. Do you think this is a legitimate way for the federal government to establish a policy supported by the majority, even though it is in an area in which states have the authority to make policy? Are minority rights adequately protected by the fact that states do not have to adopt the policy, or does withholding of federal dollars represent coercion?

## Secession and Lincoln's Inauguration

*Abraham Lincoln was elected president of the United States in November 1860 on a Republican party platform that opposed the extension of slavery. By December 20, a South Carolina state convention had decreed the state's secession from the Union. By February 1, 1861, South Carolina was followed by the other six states of the lower South: Mississippi, Florida, Alabama, Georgia, Louisiana, and Texas.*

*By the time of Lincoln's inauguration in March, the seceding states had framed a constitution establishing the Confederate States of America and had set up a provisional government under Jefferson Davis, in Montgomery, Alabama. The Confederate constitution stressed the "sovereign and independent character" of each state, though state officers had to swear loyalty to the Confederate constitution. President James Buchanan, serving his last months in office, believed that the states of the South had no legal right to secede. But he also believed the federal government had no right to prevent secession by force. As he pondered the dilemma, the Confederate states took over most federal property—customhouses, arsenals, and forts—in the lower South.*

*Lincoln discussed the crisis in the following words from his inaugural address of March 4.*

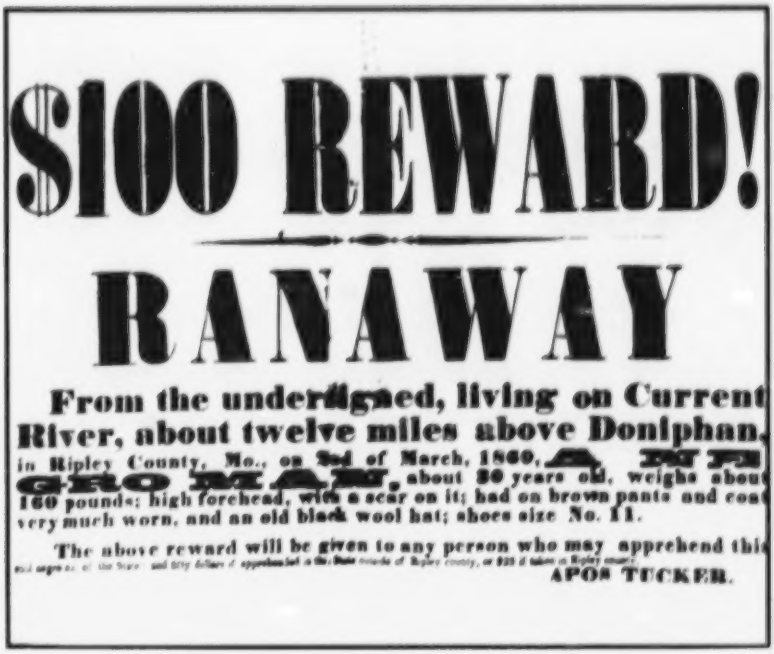
* * * * * *

Apprehension seems to exist among the people of the Southern states that by the accession of a Republican administration their property and personal security are to be endangered. There has never been any reasonable cause for such apprehension....

Yet a disruption of the Federal Union, heretofore only menaced, is now formidably attempted.

I hold that in contemplation of universal law and of the Constitution the Union of these States is perpetual. Perpetuity is implied, if not expressed, in the fundamental law of all national governments. It is safe to assert that no government proper ever had a provision in its organic law for its own termination.

Again: If the United States be not a government proper, but an association of States in the nature of contract merely, can it, as a contract,



$100 REWARD!

RANAWAY

From the undersigned, living on Current River, about twelve miles above Doniphan, in Ripley County, Mo., on 2nd of March, 1860, A MAN GEO MAN, about 30 years old, weighs about 160 pounds; high forehead, with a scar on it; had on brown pants and coat very much worn, and an old black wool hat; shoes size No. 11.

The above reward will be given to any person who may apprehend this said negro or negroes, out of the State and fifty dollars if apprehended in the State outside of Ripley county, or $20 if taken in Ripley county.

APOS TUCKER.

be peaceably unmade by less than all the parties who made it? One party to a contract may violate it – break it, so to speak – but does it not require all to lawfully rescind it?

Descending from these general principles, we find the proposition that...the Union is perpetual confirmed by the history of the Union itself. The Union is much older than the Constitution. It was formed, in fact, by the Articles of Association in 1774. It was matured and continued by the Declaration of Independence in 1776. It was further matured, and the faith of all the then thirteen States expressly plighted and engaged that it should be perpetual, by the Articles of Confederation in 1778. And finally, in 1787, one of the declared objects for ordaining and establishing the Constitution was "to form a more perfect Union."

It follows from these views that no State upon its own mere motion can lawfully get out of the Union; that resolves and ordinances to that effect are legally void, and that acts of violence within any State or States against the authority of the United States are insurrectionary or revolutionary, according to circumstances. I therefore consider that in view of the Constitution and the laws the union is unbroken, and to the extent of my ability I shall take care, as the Constitution itself expressly enjoins upon me, that the laws of the union be faithfully executed in all the States.

Plainly the central idea of secession is the essence of anarchy. A majority held in restraint by constitutional checks and limitations, and always changing easily with deliberate changes of popular opinions and sentiments, is the only true sovereign of a free people. Whoever rejects it does of necessity fly to anarchy or to despotism. Unanimity is impossible. The rule of a minority, as a permanent arrangement, is wholly inadmissible....

The Chief Magistrate derives all his authority from the people, and they have conferred none upon him to fix terms for the separation of the States. The people themselves can do this, if they choose, but the Executive as such has nothing to do with it. His duty is to administer the present government as it came to his hands and to transmit it unimpaired by him to his successor....

In your hands, my dissatisfied fellow-countrymen, and not in *mine*, is the momentous issue of civil war. The Government will not assail *you*. You can have no conflict without being yourselves the aggressors. *You* have no oath registered in heaven to destroy the Government, while *I* shall have the most solemn one to "preserve, protect, and defend it."

I am loath to close. We are not enemies, but friends. We must not be enemies. Though passion may have strained it must not break our bonds of affection. The mystic chords of memory, stretching from every battlefield and patriot grave to every living heart and hearthstone all over this broad land, will yet swell the chorus of the Union, when again touched, as surely they will be, by the better angels of our nature.

## Persisting Questions of History

**Comparing Jefferson and Lincoln's Views.** Lincoln mentioned the Declaration of Independence in his inaugural address. Compare his views on the "perpetuity" of the U.S. government with Jefferson's words from the Declaration:

> ...whenever any Form of Government becomes destructive of these Ends it is the Right of the People to alter or to abolish it, and to institute new government, laying its Foundations on such Principles, and organizing its Powers in such Form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes...But when a long Train of Abuses and Usurpations, pursuing invariably the same Object, evinces a Design to reduce them under absolute Despotism, it is their Right, it is their Duty, to throw off such Government, and to provide new Guards for their future Security.

Do you think Jefferson would have agreed with Lincoln's position on the Union? Why or Why not? How might a Southerner use the Declaration of Independence to support secession?

**Examining the Right to Secede.** Was the South justified in seceding from the Union? Was Lincoln justified in using force to prevent secession? Discuss the relevance of the following analogies to your position on the Civil War.

### The Joneses

There had been tension in the Jones family for several months. One night, Cindy Jones announced to her husband and children (aged 15 and 12): "I'm leaving this house and this family. I'm nothing but a servant to all of you. I work all day and come home to cook, clean, and wash all night. You guys are either glued to the TV, buried in video games, gibbering on the phone for hours, or just preparing to dash off. I get no love, no recognition, no attention, no help, no intelligent conversation, no companionship. Family life might be bearable if you kept your part of the bargain, but I give everything and receive nothing in return."

Bob, aged 15, snapped back, "Well, if you think you can just up and leave, so can I. I was never asked whether I wished to be part of this family. You just had me, and there I was. Now, Mom and Dad, you at least had a chance to choose each other, and you made a contract in marriage of your own free choice. But us kids were never given a choice, so why do we have any obligation? Why should I have to take *care of this little sister all the time? Why should I always have to ask per*mission of my parents for everything? I think I'll leave, too."

Should Cindy and Bob be allowed to "secede" from the family? Under what conditions should the state punish people who leave their families, and under what conditions should secession be allowed? Should children have different rights and obligations than parents?

**The Shopping Center**

The Smith Real Estate Company owned a large tract of land outside Oakton. The president of the company, Edith Smith, wanted to build a shopping center on the site. She developed plans for the center and submitted all the necessary applications for the development to the city of Oakton. A group of nearby residents opposed the center, however, citing pollution, crime, and traffic problems that would be created by the development. The Oakton City Council turned down Smith's application.

Edith Smith was furious. It was her property, and she believed she should be able to use it as she saw fit. She also believed the Oakton City Council was being shortsighted in not going after the tax benefits the center could provide. Smith contacted the city manager of the neighboring town of Lincoln, whose largest employer had just closed. The city manager thought that Lincoln would welcome a shopping center if the land were in the city limits.

Edith Smith began proceedings to withdraw from Oakton so that the land for the center could be annexed by Lincoln. Should the the Smith Real Estate Company be able to withdraw its property from the city or should they be forced to remain part of the city?

In what ways are the issues in the above analogies similar to and different from issues on the right of the South to secede from the Union?

## The War Begins

*Like his predecessor, Lincoln received bad news soon after his inauguration. His came in the form of a dispatch from the commander at Fort Sumter, Major Anderson. Fort Sumter was one of only four federal forts in the Confederate states still flying the Union flag. Anderson's dispatch informed Lincoln that the fort's supplies would run out in four to six weeks. Thus, Lincoln had to decide whether to abandon the fort or resupply it, an effort it was estimated would require as many as 20,000 troops. Anderson, General Scott (commander of the Army), and a majority of the cabinet favored surrendering the fort.*

*In late March, Lincoln once again asked his Cabinet to vote on whether to send an expedition to Charleston to resupply the fort. Now a majority favored such an expedition. On April 6, Lincoln acted. Here is how one historian described the events that followed.*

* * * * *

[Lincoln] dispatched a messenger to Charleston with the following notice for the governor of South Carolina: "I am directed by the President of the United States to notify you to expect an attempt will be made to supply Fort Sumter with provisions only; and that, if such attempt be not resisted, no effort to throw in men, arms, or ammunition will be made, without further notice, or in case of an attack upon the fort."

These words do not sound like an ultimatum, but they were received as one by Confederate leaders and acted upon accordingly. Lincoln, it has been said, must have known that he was taking a step likely to precipitate war. All this really means, however, is that any line of action other than abject surrender was bound to be provocative, given the intemperate mood in Charleston and Montgomery. Lincoln, in short, did not choose to initiate hostilities, but he did refuse to accept the Confederate terms for peace. He made one last effort to thread his way between war and disunion....Lincoln's strategy, besides offering an extension of the status quo, had a secondary purpose which, in the end, became the operative one. That is, while trying to fulfill his inaugural pledge that the forts would be held, he was also determined to keep his promise that the government would not use military coercion unless it were first attacked....

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From The Impending Crisis: 1848-1861, by David Potter, completed and edited by Don E. Fehrenbacher (New York: Harper Colophon, 1976), pp. 579-583.

The decision to inaugurate civil war at Charleston was made by Jefferson Davis and his cabinet in Montgomery on April 9, four years to the day before Lee surrendered at Appomattox Courthouse. Word of Lincoln's notice of intent had come to them the night before, after a week of confusion. By [Secretary of State] Seward and others they had been led to believe that Fort Sumter would be evacuated; yet all the while they were also receiving ominous reports of military and naval preparations. Now it appeared that they had been deliberately deceived....The authenticated notice from Lincoln might be another trick, masking a general attack on Charleston. Seward's jugglery and Lincoln's vacillation had utterly destroyed the administration's credibility in Montgomery.

Yet, even if the communications between Montgomery and Washington had been as direct, cordial, and mutually trustful as the relations between Major Anderson and [Confederate] General Beauregard at Charleston, it would have made no difference. Lincoln was prepared to accept war rather than acknowledge the dissolution of a Federal Union which in Davis's eyes had ceased to exist; Davis, in turn, was ready to make war for the territorial integrity of a Southern Confederacy which in Lincoln's eyes had never begun to exist....

At Charleston, Beauregard had standing orders to prevent any relief expedition from entering the harbor, and they scarcely needed repeating. But the Davis government went further and decided that Fort Sumter must be taken before the expedition arrived. That would eliminate the danger of having to fight both Anderson and his seaborne rescuers at the same time. In order to obtain this military advantage of dubious worth, the Confederacy voluntarily accepted the role of aggressor, preparing to open fire, if necessary, on the American flag, on a fortress charged with deep symbolic meaning, and on a soldier who had become a national hero. It would have been difficult to devise a strategy better calculated to arouse and unite the divided, irresolute North. The primary significance of the southern attack on Fort Sumter is not that it started the Civil War, but rather that it started the war in such a manner as to give the cause of Union an eruptive force which it might otherwise have been slow to acquire.

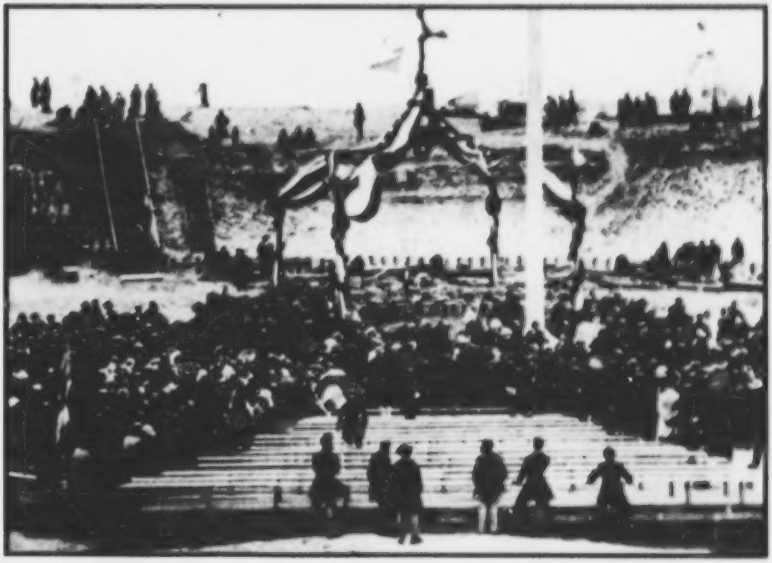
On April 10, Beauregard received his orders from Montgomery: demand the evacuation of Sumter, and if Anderson refused, proceed to reduce the fort. Anderson did refuse but added wistfully that in just a few more days he would have been starved out. This remark inspired some further negotations which eventually proved fruitless, and at 4:30 a.m. on

April 12, the first Confederate shell arched through the sky toward the fort.

The bombardment lasted for some 33 hours. Then, with fire raging through his barracks, with his ammunition nearly exhausted, and with no help in sight, Anderson acknowledged defeat. "I accepted terms of evacuation offered by General Beauregard," he reported, "and marched out of the fort Sunday afternoon, the 14th instant, with colors flying and drums beating, bringing away company and private property, and saluting my flag with 50 guns."

During the battle, a combined total of nearly 5,000 artillery rounds had been fired, miraculously without causing a single fatality on either side. It was a deceptively bloodless beginning to one of the bloodiest wars in history.

Exactly four years after the surrender—that is, on April 14, 1865—Robert Anderson returned to raise his old flag over Fort Sumter. By then, the sounds of battle had given way to the stillness at Appomattox and the issues that inflamed the antebellum years had been settled. Slavery was dead; secession was dead; and 600,000 men were dead. That was the basic balance sheet of the sectional conflict.



## Persisting Questions of History

**Reasons for Resisting Federal Policy.** Although the firing on Fort Sumter rallied Union support for the war to come, by 1863, the ranks of the Union Army were critically depleted. A nationwide military draft was instituted. In New York, people rioted in protest. They were especially outraged over the draft law's provision allowing draftees to buy their way out of the service for $300.

The eight men quoted below decided not to serve in the Union Army, for the reasons given. Decide which are the most and least legitimate reasons for refusing service. Try to rank the reasons in order from best (1) to worst (8) and explain the basis of your ranking.

- Joe: "It's morally wrong for the North to try to force the South to stay in the Union."
- Pete: "I have relatives in the South, and I refuse to take the chance of getting into a situation where I would harm them."
- Harry: "It's against my religion to kill another human being."
- Mike: "To go in the Army now I'd have to close my clothing factory, and I don't see why I should lose all that money."
- Bill: "I just don't think the North can win this war. It makes no sense to risk your life for a losing cause."
- Dave: "I don't see why I should have to fight when rich people can buy their way out of the draft."
- Henry: "I'll be honest. I'm afraid of getting hurt or killed."
- Frank: "Why should I risk my life to free the slaves when they'll just come North and take my job?"

**Balancing Principles with Practicalities.** Given the tremendous casualties and suffering of young men in battle on both sides, would it not have been better to accept secession and let history take its course? Might the treatment of blacks in the South have changed even more fundamentally if this idea had been followed?

Compare the situation in the Civil War with that of the Vietnam War. Although the United States preferred that Vietnam become a democratic country, the price – both in lives and internal strife – proved to be higher than the government had anticipated. What criteria can we use to determine when the price for a desired change is too high?

## Affirmative Action or Reverse Discrimination?

*Although the Civil War ended slavery, its effects were not so easily dealt with. As Archibald Cox, a Harvard law professor, wrote in 1979, "The first and most obvious truth is to recall that after the Civil War and the abolition of slavery, black people suffered still another century of systematic discrimination, partly private and partly governmental. The result was two Americas. Socially and economically, black communities were isolated and disadvantaged. All but a very few extraordinary individuals were excluded from the mainstream of opportunity in American life."*

*Throughout the 1950s and 1960s, blacks had made great strides, but the elimination of legalized discrimination did not bring instant equality. In response, many employers, educational institutions, and government agencies instituted affirmative action programs – hiring and admissions policies designed to help minorities and women compete. Many white males saw such programs as reverse discrimination. They claimed that they should not be held responsible for the effects of policies and behaviors of their forefathers.*

*The Allan Bakke case came to be the most renowned case involving such affirmative action programs.*

* * * * *

No one ever doubted that Allan Paul Bakke, 32, would make a fine physician. A mechanical engineer, who had graduated from the University of Minnesota with honors, Bakke had first become interested in medicine during his stint as a marine in Vietnam, where he commanded an antiaircraft missile unit. That determination grew stronger after his discharge in September 1967. He began working at NASA's Ames Research Center in Moffet Field, California, where he had the opportunity to talk with medical teams researching the effects of space and radiation on astronauts....

By the fall of 1972 Bakke had completed the necessary requirements for admission, and he began applying to 11 medical schools including his alma maters, the University of Minnesota and Stanford University, and the University of California at Davis.

---

Excerpted from The Constitution: That Delicate Balance by Fred Friendly (New York: Random House, 1984).

## Today's Issues

Davis, one of the nine campuses of the excellent University of California system, is world famous for its agricultural school, which has contributed much to California's economic bounty. A visitor today is impressed with the campus's lush, manicured lawns, tree-lined bicycle paths, and picturesque canals. The sparkling-white medical building, like the new law school, signals Davis's transformation from an old "ag" school into an extensive educational plant. At the time Allan Bakke applied, however, the medical school looked more like an army encampment, with temporary buildings and construction ditches.

The class of medical students admitted to Davis in the fall of 1972 was the second class of 100; ...16 places in that class had been reserved for "disadvantaged" students. Applicants could request to be considered under a special admissions process for disadvantaged students. That request was not automatically honored; applicants were screened by a special committee to determine whether they were truly disadvantaged. As Dr. George Lowrey, who was then director of admissions, later explained, a black student whose father was a physician and who had gone through college with little difficulty would not be considered under the special admissions program. Nor was the program represented as being solely for minorities. Nonetheless, the reality was that only minority students were considered for those 16 places, under the theory that they were the most "disadvantaged of the disadvantaged."

Under the regular admissions program, any applicant with a grade-point average of 2.5 (C+/B-) or below was automatically rejected. Applicants with a GPA above 2.5 were considered for an interview, a necessary step for admission at Davis. Of the 2,464 applicants for the 1973-1974 year—the year for which Bakke first applied—38 percent were interviewed. Each of these candidates was given a benchmark score, determined on the basis of grade-point average, Medical College Admissions Test (MCAT) scores, and the interview. For this particular year, a benchmark score of 470 meant the applicant was given one of the 84 seats in the regular admissions program.

Candidates for special admissions who had grade-point averages under 2.5 were not automatically rejected; those who showed promise were interviewed by members of the special committee. In the end, 16 candidates were recommended to the regular committee. Although these recommendations were not automatically accepted by the committee, they were rarely turned down. As compared to the regular admissions, those admitted under the special program had significantly lower statis-

tics. In 1973, the former group had averaged a B+/A-, the latter group a C+/B-. The MCAT scores of the two groups were also significantly different....

Bakke was turned down at all 11 schools to which he applied. Some have speculated that his age, by then 33, was a large factor in the rejections. Indeed, the report by Dr. Theodore West, his interviewer at Davis, described Bakke as "a well-qualified candidate...whose main handicap is the unavoidable fact that he is now 33 years of age." Yet, despite the age factor, Dr. West had recommended Bakke as "a very desirable applicant to this medical school."

Part of Allan Bakke's character was his relentless perseverance. After receiving his form-letter rejection from Davis, he wrote to Dr. Lowrey, the director of admissions, asking about any future possibility of becoming a medical student there. He suggested that his application be put on a standby status or that he be allowed to register for courses as a special student until a vacancy opened. "I realize there is no assurance that such a vacancy will develop, but I desperately want to take *any* path to a medical education....Dr. Lowrey, thank you for taking the time to consider this letter. I feel certain that if anyone can help me, you can. I pray that you will."

When a month had gone by without a response, Bakke wrote Dr. Lowrey once again. This time he took a different tack:

> I feel compelled to pursue a further course of action.... Applicants chosen to be our doctors should be those presenting the best qualifications, both academic and personal....I am convinced a significant fraction...is judged by a separate criterion. I am referring to quotas, open or covert, for racial minorities....I realize that the rationale for these quotas is that they attempt to atone for past discrimination. But instituting a new racial bias in favor of minorities is not a just solution.
>
> In fact, I believe that admissions quotas based on race are illegal. For this reason I am inquiring of friends... about the possibility of formally challenging these quotas through the courts. My main reason...would be to secure admissions for myself—I consider the goal worth fighting for in every legal or ethical way.

One can speculate as to whether that letter helped or hurt Bakke's chances for admission. As a firm believer in the special admissions policy Dr. Lowrey could not have been too pleased to see it attacked by an applicant. Yet that letter prompted a move that may have helped lead to Bakke's drive to the Supreme Court. Lowrey turned the letter over to a young admissions assistant, Peter Storandt. Storandt was deeply impressed when he read Bakke's file. Furthermore, he shared some of Bakke's views about the special admissions policy. Although he believed in affirmative action, he had his reservations about the program: "We had a program with a supportable aim, but...it had the effect of bringing hardships on other kinds of candidates...."

When he read Bakke's letter, Storandt had just returned from the annual meeting of the Association of American Medical Colleges. There, conversation had centered on *DeFunis*, a reverse discrimination case involving an affirmative action program which, as Storandt was aware, bore many similarities to Davis's. In a sensitive letter explaining Bakke's rejection, Storandt wrote that he was within the top 10 percent of the applicants, but had been turned down because of the lack of available places. Noting that none of the suggestions that Bakke had made were possible, Storandt suggested that he apply for early decision for the fall of 1974. But Storandt did not stop at that recommendation. Perhaps crossing over the boundaries of what is proper for an admissions official, he encouraged Bakke to pursue his research about the legality of quota-oriented admissions....

...taking Storandt's advice, Bakke applied for early admission to Davis for the fall of 1974.... Bakke was rejected under the early admissions plan and again in the spring of 1974 after his application was turned over to the regular admissions process....

Even before this rejection, however, Bakke had been seriously looking for a lawyer. A name that came up repeatedly was that of Reynold Colvin, a partner in a small San Francisco firm. Colvin had successfully argued a case for a nonminority school administrator, obtaining a ruling that invalidated San Francisco's five-year targets for minority hiring. He felt strongly that special treatment for minorities could result in reverse discrimination.

Colvin's initial action on behalf of Bakke was to negotiate for his admission. When that effort failed, Bakke filed suit on June 20, 1974. In his first confrontation, before trail judge F. Leslie Manker, Bakke won on the broad question but lost on personal grounds. Manker ruled that since no

whites had ever been admitted under the special plan, it was a violation of Bakke's rights under the equal protection clause of the Fourteenth Amendment and was also illegal under Title VI of the Civil Rights Act of 1964. However, he did not order Bakke's admission to Davis because it had not been shown that Bakke would have been admitted had all 100 places been available.

Bakke fared much better when his case came before the California Supreme Court. The 6-to-1 decision, which was announced in September 1976, struck down the special admissions program as a violation of the Fourteenth Amendment: "We conclude that the program, as administered by the University, violates the constitutional rights of nonminority applicants because it affords preference on the basis of race to persons who, by the University's own standards, are not as qualified for the study of medicine as nonmonirity applicants denied admission."

The California Supreme Court ordered the case remanded to the trial court, where the university would have to show why Bakke should not be admitted. Suddenly, the university acknowledged that it could not demonstrate that without the special admissions program Bakke would not have been admitted in 1973...the California high court then ordered that Davis admit Bakke. But that order was stayed pending appeal to the United States Supreme Court which granted certiorari in February 1977. It was at this point that the University of California hired Archibald Cox, a Harvard law professor who had long been committed to affirmative action policies, to represent Davis at the Supreme Court.

Oral arguments before the Supreme Court were held on October 12, 1977. Allan Bakke, now 37 years old, had been trying to get into medical school for five years. In a letter to Peter Storandt, who had since left Davis for Oberlin College, he quipped, "I may be the first person to retire from engineering to go into medicine." For Bakke it was a personal matter; for the rest of the country it was a matter of wide potential impact. Few cases in the history of the court had stimulated such emotion. No case had generated as many amicus briefs – 57 in all....For minorities the case represented a test of the nation's commitment to civil rights and equal opportunities. For the pro-Bakke contingent the case was a matter of reverse discrimination, of sacrificing the American tradition of individual rights under the justification of making up for the sins of the past – slavery and state-sanctioned discrimination.

* * * * *

The Bakke case split the Court 4-1-4. Chief Justice Burger and Justices Stewart, Rehnquist, and Stevens believed the Davis admissions policy violated the Civil Rights Act of 1964, which said that programs receiving federal funds could not exclude anyone on the basis of race. They therefore said the policy was unlawful and Bakke should be admitted to the medical school at Davis.

Justices Brennan, White, Marshall, and Blackmun disagreed. They did not find the Davis policy to be in violation of either the 1964 Act or the Fourteenth Amendment. Wrote one justice, "In order to get beyond racism, we must first take account of race. There is not other way. In order to treat some persons equally, we must treat them differently."

Justice Powell, who straddled the fence between these two groups, wrote the controlling opinion. He argued that race could be considered as one factor – though not the deciding factor – in admissions. Policies that established rigid quotas were deemed illegal, and Bakke thus should be admitted to the Davis medical school.

Allan Bakke receives his medical degree.

## Persisting Questions of History

Below are excerpts from the arguments of the three attorneys who spoke before the Supreme Court. Read each argument carefully. With which do you most agree? Give reasons to support your position. Be sure in constructing your reasons to consider the issue of who is responsible for redressing the effects of past wrongs.

**Archibald Cox, attorney for the University of California at Davis:**

Cox argued that the Davis policy could not be considered a traditional quota because it was used to increase, rather than to limit, minority participation. He pointed out that many other factors besides grades and test scores – for example, athletic ability and geographic dispersion – were used in deciding who would be admitted to colleges and universities. He also argued that affirmative action plans were needed to bring minorities into professions from which they had been excluded:

> This case...presents a single vital question: whether a state university which is forced by limited resources to select a relatively few number of students from a much larger number of well-qualified applicants, is free, voluntarily, to take into account the fact that the applicant is black, Chicano, Asian, or native American to increase the number of those minority groups trained for the educational professions and participating in them, professions from which minorities were long excluded...
>
> The answer the court gives will determine, perhaps for decades, whether members of those minorities are to have the kind of meaningful access to higher education in the professions which the universities have accorded them in recent years, or are to be reduced to the trivial numbers which they were prior to the adoption of minority admissions programs...The Fourteenth Amendment does not outlaw race-conscious programs where there is no insidious purpose or intent, or where they are aimed at offsetting the consequences of our long tragic history of discrimination in achieving greater racial equality.

**Reynold Colvin, attorney for Allan Bakke:**

Bakke's lawyer said that racial quotas were discriminatory and in violation of the Constitution. He argued that the Constitution did not dis-

tinguish between discriminatory policies that help minorities and those that hurt them. He stressed that individual achievement should be the deciding factor in granting admissions.

> I am Allan Bakke's lawyer and Allan Bakke is my client. The name of the game is not to represent Allan Bakke as a representative of some class....
>
> Use of racial classification is unconstitutional, not because it is limited to sixteen, but because the concept of race itself as a classification becomes in our history and in our understanding an unjust and improper basis upon which to judge people. We do not believe that intelligence, that achievement, that ability are measured by skin pigmentation or by the last surname of an individual. Numbers are unimportant. It is the principle of keeping a man out because of his race that is important.

**Solicitor General Wade McCree, speaking for the federal government:**

McCree reminded the justices that the federal government had allowed race to be considered in granting special scholarships, reserving loans for minority-owned businesses, and requiring government contractors to hire minorities. Although he acknowledged that the Fourteenth Amendment protects people of all races, he said that special measures were necessary to overcome the consequences of past discrimination.

> The United States has...concluded that voluntary programs to increase the participation of minorities in activities throughout our society, activities previously closed to them, should be encouraged and supported....this Court does not require a recital of the extent and duration of racial discrimination in America from the time it was enshrined in our very Constitution: in the three-fifths compromise, in the fugitive slave provision, and...it continues until the present day....Indeed, many children born in 1954, when *Brown* was decided, are today, twenty-three years later, the very persons knocking on the doors of professional schools, seeking admission...They are persons who, in many instances, have been denied the fulfillment of the promise of that decision, because of resistance to this Court's decision that was such a landmark when it was handed down.

## Review, Reflection, and Research

### Determining Responsibility

A study released in mid-1989 by the National Research Council indicated that blacks continue to trail whites in all areas related to the quality of life, including such factors as infant mortality, poverty, access to quality education, health care, and housing. Challenging the thinking of some sociologists, who attribute poverty to causes within the black community, the report stated:

> The evidence does not support some popular hypotheses that purport to explain female-headed households, high birth rates to unmarried women, low labor-force participation by males, or poor academic performance solely on the basis of government support programs or, more generally, on the existence of a "culture of poverty" among the black poor.

Echoing the words of 20 years earlier, the study said that blacks remain poor because they lack opportunities: "If all racial discrimination were abolished today, the life prospects facing many poor blacks would still constitute major challenges for public policy."

In your view, who is responsible for continuing poverty among blacks? Can the problem be addressed without asking other groups to pay the costs, bear the burden for redressing past—and perhaps present—wrongs? What policy responses would you suggest to the National Research Council's report?

### Uniformity and Diversity

Suppose you were president of the United States, concerned with preserving the Union, but also favoring self-government and freedom for different groups of people. As you look around the nation, you see that states and communities have differing policies on certain matters and some groups urge practices quite different from the national majority. For example:

- States differ in the age at which people become eligible to drive a car or are allowed to drop out of school.
- Restrictions on abortion vary from state to state.

- The Amish (a religious group) oppose mandatory contributions to the Social Security system and refuse to send their children to certain public schools.
- Several communities have declared themselves "Nuclear-Free Zones," prohibiting construction of nuclear facilities or transport of nuclear waste within their jurisdictions.
- Some cities are providing people addicted to illegal drugs with free needles as a means of preventing the spread of AIDS; other communities oppose any actions that seem to support illegal drug use.

Try to arrive at a set of rules or principles that tell you for what kinds of problems a uniform national policy is desirable and for what kinds of problems it would be better to let states do as they wish. In what ways are these questions related to the problem that led to the battle at Fort Sumter?

**Questioning the Federal System**

"Instead of reserving substantial powers for state governments, the Founding Fathers should have eliminated state governments and created one powerful national government. This would have prevented the Civil War. Today states represent only arbitrary geographical boundaries, not special interests of distinct groups of people. We could eliminate such confusion, waste of money, and corruption if we abolished state governments and created only one national government that made standard rules for everyone in the nation."

On what basis do you agree or disagree with this position?

**Examining the Nature of the Social Contract**

If we agree that students should be able to drop out of college, that athletic teams should be able to withdraw from leagues, that labor unions can secede from the AFL-CIO, should states be able to secede from the Union or towns secede from states? When a state joins the Union, what kinds of powers and rights do its citizens legally acquire or abdicate? Is this right? To what extent must the descendants of the parties to a contract be bound by it?

How binding is the contract states enter into when they join the Union?

**Protesting Federal Policy**

For what kinds of causes or issues would you advocate deliberate disobedience of government policy? Consider, for example, American Indian opposition to the federal government in the 19th century, Jewish opposition to the Nazis, American students' opposition to U.S. involvement in Vietnam, black Americans' efforts to gain equal rights, South African blacks' efforts to end apartheid, Polish workers' struggle to gain rights, Chinese students' movement for democracy, and anti-abortionists' efforts to prevent abortions and change abortion laws.

Can you imagine any federal policies – past, current, or future – that you would resist by any of the following methods? Indicate what type of policy might call for these tactics and on what grounds you approve or disapprove of each.

- Fleeing to another country.
- Organizing pickets and demonstrators to convince others to support your position.
- Organizing peaceful strikes.
- Sabotaging the government's efforts.
- Starting a riot.
- Writing letters of protest to members of Congress.
- Refusing to pay taxes.

To order this unit or for more information on the Public Issues Series, contact:

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# THE CIVIL WAR: SLAVERY AND THE CRISIS OF UNION TEACHER'S GUIDE

Public Issues Series Social Science Education Consortium 1989

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### The Public Issues Series

The *Public Issues Series* was originally conceived of by the Harvard Social Studies Project of the 1960s and 1970s. The major purpose of the series—both then and now—is to help students analyze and discuss persisting human dilemmas related to public issues. We would emphasize that the term *public issues* is not synonymous with *current events*. By public issues, we mean problems or value dilemmas persisting throughout history and across cultures. The situations of Christian martyrs in Rome, a bureaucrat in Nazi Germany, a slave in 19th-century America, or an Ethiopian refugee in Texas in 1988 all represent important public issues. We believe that most of the important current events can be clarified by reference to public issues in other places and other times. Thus, all the units in the series suggest parallels between historical illustrations of persisting human dilemmas and present issues in the United States and the world.

The units in the series use historical, fictional, and contemporary situations. They also assist students in using a structured approach to issues analysis and in developing the skills of reasoned discussion. The units are not designed to be followed mechanistically through every question. There is no critical sequence of exercises. Teachers should view the materials provided as possible strategies for developing discussion of public issues and should pick and choose among the materials according to their own goals. In making selections, teachers should note that students will need information from other sources to discuss some questions intelligently; this may be a factor in deciding whether to have students address those particular questions.

As classes work with the materials, it is important to give students a sense of progress by periodically summarizing where the case material and discussion have taken them, particularly in terms of their discussion skills and the central, or necessary, questions of the unit.

### The Necessary Questions

This unit on the civil war focuses on the following organizing questions:

- Who is morally responsible for the effects of slavery? What duties does such responsibility create?
- On what kinds of questions must there be a single uniform national policy? For what issues is it reasonable to allow differing policies and institutions, depending upon the wishes of the local government?
- On what grounds is it legitimate for a person, group, or government to secede from a contract or agreement to which they have been party by tradition or choice?
- What are the advantages and disadvantages of responses such as martyrdom, peaceful civil disobedience, rioting, secession, or revolution by groups that feel they cannot tolerate existing national policy?

Primary source documents and secondary sources are used to acquaint students with how these questions have manifested themselves in U.S. history, particularly during the years leading up to the Civil War. The first section of the book looks at the institution of slavery—its origins, effects on individuals and society, and the U.S. government's attempts to strike a compromise between the conflicting regions. Students then examine various forms of resistance employed by blacks and whites. They learn about the conditions and events that led to the violence at Sumter, analyzing views on secession to gain insight into problems of federalism. Students then examine contemporary issues related to long-term effects of slavery.

**Analyzing the Issues**

In addressing the necessary questions of the unit, students will grapple with ethical-value questions, definitional issues, and issues of fact-explanation. For example, students analyze the values that influenced people's views on slavery (ethical-value questions), define slavery (definitional issues), and discuss whether slavery was a "curse to the whites as well as to the blacks" (fact-explanation issues).

As students work through these and other issues, they should practice the explicit stating of issues and use of analogy to clarify their positions, as illustrated in the following classroom discussion on Nat Turner's Rebellion:

**Student 1:** Nat Turner's idea of freeing the slaves was doomed to failure from the beginning. Since the plan didn't have a chance, he was wrong to ever try it. (*Supports value claim by predicting a consequence.*)

**Student 2:** I think that's a very immoral argument. Killing people is just plain wrong, whether it's going to succeed or not. (*Identifies a conflicting value.*)

**Student 3:** Both of your positions are somewhat off the subject. The whole thing boils down to the fact that Turner was violating the law. That just plain settles it. (*Identifies still another conflicting value.*)

**Student 1:** I disagree. The American colonies started a rebellion, which included breaking laws. And the reason we think it was right today is because it succeeded. (*Uses an analogy to support a position.*)

**Student 2:** Not at all. The American Revolution was right because it was started and run by responsible men who knew how to organize a new country with the least amount of violence and killing. It wasn't started by one fanatic who had no sense of where he was going once the rebellion began. (*Makes a distinction between the analogy and the original case.*)

**Student 3:** It may sound a little unpatriotic, but I think the colonies were also wrong in defying English law, especially when they had not exhausted all the legal remedies. Breaking the law is wrong and that's really the most important issue.

**Student 1:** Look, we can go around on these issues all night and never get anywhere. Why don't we talk about one issue at a time? Let's start with whether violence that endangers the lives of innocent people is ever right. (*Identifies roadblock to discussion and sets agenda.*)

**Teaching the Unit**

Each Public Issues unit can be taught in a variety of ways. The following is one way to approach *The Civil War: Slavery and the Crisis of Union*. Note that you need not cover all the issues or questions covered in the unit. Student interest and engagement may dictate the issues on which you decide to focus.

Note that this booklet is not intended to replace your usual approach to the Civil War and therefore does not provide a complete "story" of the Civil War. Rather, the unit is designed to deepen and enhance students' understanding of issues surrounding the Civil War.

**Preparing to Teach the Unit.** Post the examples of the three types of questions from page 5 of the unit on the chalkboard. Do not indicate which type of issue each represents.

Tell students that these questions represent three different kinds of issues that people must deal with in discussing public issues. Encourage students to come up with categories that describe the differen-

ces among the three kinds of questions. If necessary, provide an additional example of each type of question. For example: Should all people have a right to settle where they wish? (Ethical or value issue) Is someone who cannot find work in his/her homeland oppressed? (Definitional issue) Will increased immigration lower the U.S. standard of living? (Fact-explanation issue)

Students are not likely to come up with the names of the categories used here, but they should be able to describe such categories as "questions about what *should* or *ought* to be done," "questions about meanings," "questions about what actually happened and why," and the like.

Discuss with students the methods for supporting or challenging claims related to each type of issue.

| Type of Issue | Strategies for Supporting/ Challenging Claims |
|---|---|
| Ethical-value issue | Use of value-laden language<br>Use of a respected source<br>Prediction of a valued consequence<br>Identification of a conflicting value |
| Definitional issues | Stipulation<br>Use of a respected source |
| Fact-explanation issues | Reference to common knowledge<br>Personal observation<br>Use of a respected source<br>Demonstration of consistency with other well-established claims |

Explain to students that the unit they will be undertaking uses a special strategy to help students clarify their thinking about issues, particularly about ethical-value issues. That strategy is use of analogies. Help students arrive at a definition for the term *analogy* – comparison based on similarities between otherwise unlike things or events. Distribute the handout and go over the material presented with students. Then divide the class into groups of four or five students and allow time for the groups to discuss the assignment provided on the handout. During the remainder of the unit, remind students to apply the material from the handout in their discussions.

**Introducing the Unit.** Assign students to read pages 3-5 of the unit. Conduct a brief discussion of the necessary questions of the unit, reminding students to keep these questions in mind as they proceed through the unit.

**Personal and Political Meanings of Slavery.** This section provides necessary background on the sectional conflict that led to Civil War. The first reading, "Slavery's Beginnings," touches on how slavery got its start in the United States, why it grew stronger with the invention of the cotton gin, and how slaveholders justified their actions. The section also presents an excerpt from David Walker's fiery *Appeal*. The first question in the "Persisting Questions of History" accompanying this reading deals with the values and personal interests that influenced people's views on history. The second question involves students in speculating on whether there were alternatives to violence. You may want to post possible alternatives students mention on the chalkboard for reference as students proceed through the unit; they can check off alternatives that were actually tried by blacks or whites as they read about them.

The next section presents three first-person accounts of slavery. Students may read all of these accounts, or you may assign one account to each student and then group the students in threes for sharing. Because accounts of cruelty were used by abolitionists to generate sympathy for their cause, students are asked to analyze this tactic, finding contemporary examples of its use. Another "Persisting Question" deals with defining *slavery*. To expand on this idea, students might investigate restrictive contracts of star athletes and models and consider whether such contracts, by treating people essentially as property, constitute a contemporary form of slavery.

The final reading in this section focuses on the U.S. government's search for a way to accommodate the demands of both Northerners and Southerners without destroying the union. Because the ideas of states' rights and nullification recur later in the unit, you should discuss these ideas in sufficient detail to ensure that students understand the underlying thinking. As students discuss the propriety of expanding or restricting areas open to slavery in the 19th century, they should also confront the fundamental issue: *What bodies should have the authority to make decisions on such issues?*

In examining the role of traditional practices in determining policy, you might suggest an analogy regarding drugs. We know that tobacco is a harmful drug, but it has traditionally been legal. Marijuana, on the other hand, has traditionally been illegal. Should we allow such inconsistency because of tradition? As our thinking regarding a customary practice changes, when do we have the right to impose the changed values on others? Should tobacco, for example, be outlawed even though it would destroy many farmers' livelihoods?

The final "Persisting Question of History" in this section will require some additional research by students. It could, in fact, be turned into an ongoing project that students pursue throughout the year. The provocative book, *The Nine Nations of North America*, could provide a starting point for an examination of what differentiates regions today.

**Resistance and Dissent.** This section describes various deliberate violations of the law by groups who saw the law as unjust. Students can develop a list of different types of protest, indicating which violate the law and which do not.

Their list might include boycotts, work slowdowns, sabotage, planned revolution, peaceful civil disobedience, secession, riots, and so on. The morality of the various tactics in specific situations can be debated. In discussing Nat Turner's Rebellion, for example, students could consider whether the slaves had any reasonable alternative to pursue, whether, in fact, they should have embarked on a revolution. The South African analogy can be used to help clarify students' thinking on this point. Another analogy could be drawn with the 1960s case of Black Panther Huey Newton, whose story is told briefly below:

Huey Newton graduated from Berkeley High School and attended Merritt College and San Francisco Law School. In 1964, after a street fight, he was sent to the county jail for a year. He was in continuous trouble with jail authorities for leading other black prisoners in food strikes and protest demonstrations.

After his release, Newton met with Bobby Seale, a college friend. They decided to form a revolutionary organization of black people. The black panther was chosen as their symbol because "It is not in the panther's nature to attack anyone first, but when he is attacked...he will respond viciously."

The first aim of the party, said Newton, Seale, and the other founders, was self-defense. They charged that police in American cities conducted campaigns of fear and brutality against black people. Black neighborhoods, they said, were like colonies. The Panthers said they would arm to defend themselves against the police. They began shotgun patrols of the West Oakland ghetto, observing when police made arrests.

The Black Panthers also developed a ten-point platform that called for self-determination in the black community, full employment and decent housing, exemption of blacks from military service, an end to police brutality, freedom for all black prisoners, and black juries in cases involving black defendants. The Black Panthers' positions and actions created a great deal of controversy.

At 5 a.m. on October 28, 1967, Oakland police officer John Frey radioed from his patrol car that he was going to stop a "known Black Panther automobile." Policeman Herbert Heanes went to the scene to assist Officer Frey. When Heanes arrived, Frey was talking to two black men in a Volkswagen. Frey ordered the driver to get out of the car. Suddenly there was a scuffle and a flurry of shots.

Bus driver Henry Grier, a black man, told police he had stopped his bus behind the two patrol cars and the Volkswagen. He described the driver of the car as a "peewee fellow" hardly 5 feet tall, wearing a tan jacket, a dark shirt, and a hat. The man, he said, had suddenly whirled on Officer Frey, pulled a pistol from his shirt, and started shooting. Officer Frey had been knocked to the ground, Grier said, where the driver of the Volkswagen had shot him at least three more times.

Henry Grier examined a series of photographs shown him by the police. He identified one of them as the killer (Officer Frey had died minutes after being taken to the hospital). The picture was one of Huey Newton, who was at that moment in Kaiser Hospital being treated for a gunshot wound in the abdomen. Newton, who was about 5 feet 10 inches tall, was wearing a light blue shirt and a black leather jacket.

Newton was arrested on a charge of first-degre murder and shackled to an operating table as he underwent treatment. Black Panther supporters—black and white—agitated for Newton's release. They argued that the charges against him were political. They maintained that he was being held for defending the black colony against police oppressors.

Newton's trial began in August 1968. Although the defense hammered at Grier's inexact description of the killer, police established that the Volkswagen belonged to Newton's fiancee and that a book belonging to Newton was found in the car.

Finally, after weeks of testimony, the charge against Newton was changed from first-degree murder to voluntary manslaughter. Newton was found guilty of the lesser charge on September 9 and sentenced to 2 to 15 years in prison. Many police officers openly expressed the view that Newton's punishment was too light.

The facts of the Huey Newton case are disputed, but assume for the moment that you believe Newton intentionally killed Officer Frey. Should Newton be punished more harshly for killing a police officer than Nat Turner, who killed ordinary civilians? Should Newton be punished more harshly than a person who kills a police officer because of a personal grudge? Should Newton have been punished

less harshly because he believed he was acting to protect his community? Should the political program of the Black Panthers be allowed as evidence in determining Newton's guilt or in setting his penalty? Would considering the program have helped or hurt Newton's case?

In examining the second case in this section, involving the moral indignation of citizens in Boston over slavery and the fugitive slave law, you may wish to have students examine the irony of these citizens' decision to break the law in this case but their willingness to go to war to force the South to conform to federal law on other issues.

One of the "Persisting Questions of History" following this case involves Eisenhower's use of federal troops in Little Rock in 1954. You might expand upon the discussion of this incident by using the letter from a W.D. Lawson, a white Southerner, to the chair of Eisenhower's 1956 reelection committee, which was published in the March 1987 issue of *Social Education*. This letter says, in part, "President Eisenhower and his Attorney General have pressed for changes in the educational system of our section, which many of us think are as unconstitutional as anything done under the new deal. I think I speak for many of President Eisenhower's former followers when I say that the central government in Washington has no authority to tell us who shall, or who shall not, attend the schools which have been erected and whose teachers are paid wholly by the citizens of this state."

The final question in this section involves a case of extradition, the ruling precedent for which was a fugitive slave case. The primary question in the case is whether the federal government can force a state to comply with the extradition clause in the Constitution. The analogy is presented as a case study, but the Supreme Court's decision is not given.

For your information, the Court's decision was as follows:

Upon review of Puerto Rico's request in the present case, the Supreme Court overruled both lower courts by overturning the second holding in *Dennison*. The Court affirmed that the Extradition Clause and the Extradition Act impose a mandatory duty on state officials to deliver up fugitives upon a state's proper request. However, this time the Court held that federal officials do indeed have the authority to compel a state official to hand over a fugitive.

The court substantiated the authority of federal officials on several grounds. The power of the federal government has changed drastically since the *Dennison* era. At that time, several states had seceded from the Union, and civil war was imminent. Never has the government's power been so low. Since that time, however, the Court has repeatedly recognized that the federal government may forbid unconstitutional action by state officials...There is no reason to distinguish delivering up a fugitive of justice from the other sorts of constitutional duty enforceable in federal courts.

The Court held further that the Extradition Act applies to Puerto Rico, despite its Commonwealth Status. The Act requires the rendition of fugitive upon proper demand of a "State" or "Territory." Governor Branstad must now deliver Calder to Puerto Rican officials to stand trial for murder and attempted murder.

(From "Court Report," *Update on Law-Related Education*, Winter 1988).

**Prelude to War**. The first reading in this section provides a very brief overview of events in the 1850s, events likely covered in greater detail in your text. You may want to expand on your earlier discussion of tactics for generating support by focusing on Harriet Beecher Stowe's novel and its impact. Students might search for contemporary examples of novels or movies that have generated more concern than news reports or tracts written by partisans.

The second reading presents excerpts from Lincoln's inaugural address. You may want to have a student present the speech aloud (although not in Lincoln's high-pitched monotone).

The final reading in this section is an excerpt from historian David Potter's *The Impending Crisis*. As students read and discuss the excerpt, encourage them to look for conclusions being drawn by the historian and evaluate the evidence on which those conclusions are based. How is using this secondary source different from reading primary source material, such as the excerpts from Lincoln's inaugural?

**Today's Issues.** This section focuses on the issue of affirmative action as a means of approaching the unit's first critical question: Who is morally responsible for the effects of slavery? Before beginning examination of the Bakke case, which provides the basis for discussion in this section, you may want to review with students the treatment and experiences of black Americans following the Civil War, tracing the development of Jim Crow laws, race-related violence in the early decades of this century, and the gains of the civil rights movement. Reading excerpts from such literary works as Richard Wright's *Black Boy* or Lorraine Hansberry's *Raisin in the Sun* would provide stimulating material

on which to base discussion of the black experience.

Since the Bakke decision, the Supreme Court has handed down several decisions on affirmative action, including a 1989 decision (see *Martin v. Wilks*) that most observers believe seriously undermines such programs. Interested students might be encouraged to conduct additional research on this topic.

**Review, Reflection, and Research.** These exercises include writing, research, and discussion. You may assign them selectively for completion by individual students or small groups, or they can be used as topics for large-group discussion and reflection on the unit. These exercises can also be used for evaluative purposes.

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Student Name _____

# USING ANALOGIES

One of the most powerful techniques for dealing with ethical-value issues is to suggest that the issue would be resolved differently in a number of related cases. For example, you might begin with a case, identify the issue that seems most relevant, identify another case that is similar in the sense that it raises the same issue, and see how we feel about the policy as it applies to the second case.

By way of illustration, consider the following case:

**Mrs. Webster's Rooming House**

Mrs. Webster struggled to eke out a living from the small rooming house she operated. She was quite disturbed when the city expanded its fair housing ordinance to prohibit discrimination against homosexuals. Mrs. Webster's religion believed that homosexuality is a sin. In addition, Mrs. Webster felt that if she rented rooms to such people her regular boarders might move out because of the fear of AIDS. "It's my property," she told her neighbors, "and no one has the right to tell me whom I must allow to sleep in my house."

One night Mrs. Webster's dinner was interrupted by the ringing of her doorbell. It was one of her boarders, Ms. Rand, who had come to complain about the two men in the room next to hers. Ms. Rand believed that Mr. Smith and Mr. Jones were gay.

When Mr. Smith and Mr. Jones came home that evening, Mrs. Webster stopped them in the hall. She told them they would have to move out because she had decided to renovate the room they were renting.

Sam and Rayna are discussing this case.

**Sam:** The government should not tell Mrs. Webster how to run her business.

**Rayna:** Suppose Mrs. Webster ran a restaurant. In order to save money, she served leftover food the next day. Occasionally the food spoiled and customers got food poisoning, but since most of the customers were transient, moving through town, they never really complained. Do you think the government should force Mrs. Webster to abide by certain health standards?

**Sam:** Yes, of course.

**Rayna:** Well, that's government control. I thought you were opposed to government interference with a person's business.

**Sam:** Well, a restaurant is different from a rooming house. It affects a person's health.

**Rayna:** Getting a good night's rest also affects your health. If Mr. Smith and Mr. Jones cannot find a place to stay and have to sleep out in the cold, Mrs. Webster is hurting them – maybe even more than a person who just has a stomachache from old food.

**Sam:** But this is in her own home. She shouldn't be forced to open her home to people who make her feel uncomfortable or who would cause other renters to move out.

In this conversation, the related case or analogy made Sam seek an important distinction between the original case and the analogy to explain why he felt differently about the two instances of government interference. The first distinction seemed unpersuasive because sleep may be as critical to good health as food. The second distinction seems somewhat more persuasive: if the business is carried on within one's own home, shouldn't there be less government control?

The power of the analogy stems from the fact that it causes us to make distinctions and qualifications that strengthen and clarify positions. Sam can no longer say that he is *generally* against government control of business; he is obviously for government control under certain conditions, which serves to qualify his position.

Whether an analogy is effective may depend on how strongly people want to stick to their positions. When confronted with a challenging analogy, people may:

- Reverse their original position.
- Maintain their original position by showing how the analogy is different from the original situation.
- Qualify their original position.

Remember that using an analogy is not a way of "beating" or "showing up" someone else. It is a tool to help everyone involved in a discussion develop clearer positions with more complex justifications.

**Assignment:**

The policy of "affirmative action" – giving certain groups preference in hiring for jobs or getting into schools to compensate for past discrimination – has been hotly debated for many years. A white person who loses a job to a black applicant may feel that he/she is being held responsible for past injustices in which he/she had no part.

Do you support the policy of affirmative action? Develop a reason for your position. With a small group of your classmates, discuss your positions. Then use these analogies to clarify your positions.

> Suppose your son is kidnapped on the way home from school. The kidnapper threatens to kill him unless you pay a ransom. You didn't cause the problem, but don't you have a responsibility to try to pay the ransom?
>
> Suppose you're with a group of kids and they decide to beat up a smaller kid. You don't think it's right, but you don't try to stop them. Aren't you also guilty?
>
> Suppose your teacher has to leave the room for a moment. While he is gone, one student pushes all the papers off his desk. When the teacher returns, he asks who is responsible. No one answers, so he sends the entire class to detention. Is this fair?